

CITY COUNCIL
GIL MCDOUGAL, MAYOR
DANNY CARTER, MAYOR PRO-TEM
SHIRLEY MARCHMAN
LESLIE MCPHERSON
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MICHAEL YOUNG

City of Villa Rica



CITY MANAGER: TOM BARBER
CITY CLERK: ALISA DOYAL
CITY ATTORNEY: C. DAVID MECKLIN

571 W BANKHEAD HWY
VILLA RICA, GA. 30180
770.459.7000 | VILLARICA.ORG

MAYOR & COUNCIL WORK SESSION AGENDA

Holt-Bishop Justice Center, Municipal Courtroom, 101 Main Street
October 8, 2020 | 3:00 PM

Review of the Agenda (Mayor Gil McDougal)

A. Presentations (Bobby Elliott, Community Development Director)

1. Announcement of the Final Public Meetings on the Forward Villa Rica Transportation Master Plan

B. Community Development (Bobby Elliott, Director)

1. Zoning Appeal of 0 Harrell Road (PIN# V04 01200448) - Public Hearing is required. (Chris Montesinos, Deputy Director of Community Development)
2. Zoning Appeal of 0 Industrial Boulevard (PIN# V02 0770012) - Public Hearing is required. (Chris Montesinos, Deputy Director of Community Development)
3. Zoning Appeal of 0 Sugar Hill (PIN# V03 0090001) - Public Hearing is required. (Chris Montesinos, Deputy Director of Community Development)
4. Zoning Appeal of 1309 W. Bankhead Hwy - Public Hearing is required. (Chris Montesinos, Deputy Director of Community Development)
5. Zoning Appeal of 1401 W. Bankhead Hwy - Public Hearing is required. (Chris Montesinos, Deputy Director of Community Development)
6. Establishment of Villa Rica Downtown Entertainment District. (Chris Montesinos, Deputy Director of Community Development)
7. Presentation of the LCI Proposal Evaluations and Recommendation for the Selection of a Consultant for the Villa Rica Livable Centers Initiative Study. (Chris Montesinos, Deputy Director of Community Development)
8. Dallas Road Abandonment and Sale (Chris Montesinos, Deputy Director of Community Development)
9. Temporary Road Closure Request for Walton Communities (Bobby Elliott, Director)

C. Human Resources (Stephanie Rooks, Manager)

1. Change in Payroll Provider

2. 2021 Benefit Premiums
3. Plan Document Changes
4. Health Benefit Changes (Third Party Agreement)
5. Change in Pharmacy Assistance Program

D. Economic Development (Janet Chumley, Manager)

1. Amendment to Main Street Advisory Board Bylaws

E. Parks and Recreation (Tracie Ivey, Director)

1. Adjust Amount Approved for CapturePoint (Recreation Software)

F. Utilities (Pete Zorbanos, Director)

1. Earthwork for Distribution/Collection Equipment Storage Building

G. Police (Michael Mansour, Chief)

1. Items for Auction

H. Finance (Sarah Andrews, CFO)

1. 2020 Budget Amendments

I. Public Comment (We ask that you sign in for Public Comment before the meeting begins. Please state your Name and Address for the record and limit your comments to three minutes.)

J. Adjournment



CITY OF VILLA RICA

City Council Packet

SUBJECT: Zoning Appeals: 0 Herrell Road (PIN# V04 01200448)

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 16, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: The property owner or his/her representative is appealing the decision by the City to change the zoning classification on the property from OI – Office Institutional to R1 – Single-Family Suburban.

BACKGROUND: The zoning classification for the subject property was changed from OI – Office Institutional to R1 – Single-Family Suburban upon adoption of the Villa Rica Zoning Map on August 11, 2020. The subject property, as well as adjacent parcels, were identified in the zoning audit as having zoning classifications that were inconsistent with the current or historical uses for the properties. Specifically, this vacant parcel, and the adjoining single-family residences, were zoned OI – Office Institutional. The use of said properties was deemed nonconforming under the OI zoning. The property owner/representative was notified of the intent to rezone and filed a formal objection. Further, the large parcel across the street was zoned PD, although there was no record of a PD Master Plan ever filed. The property owner/representative was contacted by the City with a formal Zoning Appeals Form, which was filed with the City in a timely manner. The Appeal did not qualify for an Administrative Adjustment due to the following reasons:

- Numerous zoning corrections were made in the area, and this was the only property owner who objected to the change in zoning – maintaining the existing OI zoning on an undeveloped parcel surrounded by R1 and AG zoning classification would have resulted in an inconsistent and isolated spot zone.
- The property has never been developed for a non-residential use, and remains vacant. It is not being taxed as a commercial use, and has no permits, licenses, or applications pending with the City for a non-residential use.
- The property owner did not meet the Vested Rights criteria under the Unified Development Code.
- The subject property does not meet the minimum lot size requirements (1ac) under OMI zoning.

The Zoning Appeal was heard by the Planning & Zoning Commission on September 1, 2020. The recommendation of the Planning & Zoning Commission was to Deny the Zoning Appeal.

STAFF RECOMMENDATION: Staff recommendation is to deny the Zoning Appeal and allow the property to remain in the R1 – Single-Family Suburban zoning district.

IMPACT: Zoning the property to R1 will allow for future infill housing development, consistent with adjoining single-family residences north and south of the subject property.

MOTION:

Motion to deny the Zoning Appeal for 0 Herrell Road, and maintain the current R1 zoning classification.



Zoning Challenge and Appeal Form

(for approved applications)

Property Information

Carroll **0** **Harrell Road**

County House No. Street Name

V04 0120048 **0.65**

Parcel ID Number Total Acreage

Current Zoning: **OI – Office Institutional**

Proposed Zoning: **R1 – Single-Family Suburban**

Challenger Information

☐ Owner ☐ Owner-Representative ☐ Affiliated Organization _____

Last Name First Name MI

Mailing Address (if different from property address)

Email Daytime Phone Number

Note: Use the form ONLY for challenges related to the Zoning Resolution.

Select one: ☐ Initial Challenge ☐ Appeal to a previously denied challenge
(denied challenge must be attached)

_____ Indicate the total number of pages submitted, including attachments
(attachments may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

Note to challengers: An official decision to the challenge will be made available no earlier than seventy-five (75) days after the Zoning Challenge process begins. For more information of the Zoning Challenge process contact the Community Development Department at (770) 459-7000.

How is the appellant an aggrieved person?

Written statement received in lieu of a Zoning Appeals Form.

(attach additional sheets as required)

ADMINISTRATIVE USE ONLY

Zoning Challenge and Appeal Received: _____

Authorized Representative(s):

Signature and Date

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____

February 11, 2020

City of Villa Rica, Georgia
Attn: Department of Community Development
571 W. Bankhead Hwy.
Villa Rica, GA 30180

Re: Parcel ID Number: V04 0120048 - Herrell Rd Zoning Notificaion

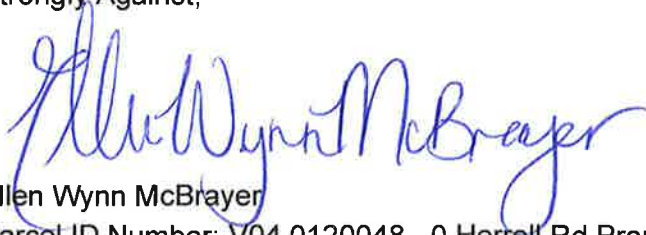
To whom it may concern,

The rezoning from OI (office/institutional) to single-family residence would create a residential use next to Willowbrook at Tanner. We believe strongly and even more so to confirm our beliefs after asking a zoning expert to review this area for us. The rezoning is premature until the Hwy 61/101 connector is built.

The frontage is directly across from my property Herrell Rd from Ashbrook Assisted Living facility which is a O/I use. That use generates a considerable amount of traffic. Again, this rezoning is premature and should be put on hold until after the Hwy 61/101 connector is built. This Hwy 61/101 connector is already approved and underway to be completed which does make this rezoning premature.

With that said, we officially contest and file a petition against this change.

Strongly Against,



Ellen Wynn McBrayer

Parcel ID Number: V04 0120048 - 0 Herrell Rd Property

VR CITY HALL
FEB 13 2020 AM 11:26



Zoning Appeal Evaluation Form

for Zoning Appeals received within sixty (60) days of
the adoption of the Villa Rica Zoning Ordinance

Property Information

Carroll **0** **Harrell Road**

County House No. Street Name

V04 0120048 **0.65**

Parcel ID Number Total Acreage

Current Zoning: **O-I – Office Institutional**

Proposed Zoning: **R1 – Single Family Suburban**

Challenger Information

McBrayer **Ellen** **Wynn**

Last Name First Name MI

11003 Hardwood Circle, Villa Rica, GA 30180

Mailing Address (if different from property address)

Email

Daytime Phone Number

REVIEW CRITERIA – CHECK ALL THAT APPLY

- No*
No
yes
yes
yes
yes
- ☐ The existing zoning was in error at the time of adoption; or
 - ☐ The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or
 - ☐ There is a community need for and benefit from the proposed rezoning; or
 - ☐ The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or
 - ☐ The proposed zoning is compatible with the zoning and uses of property nearby; or
 - ☐ The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and
 - ☐ Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and
- yes*

An official appeal has not been filed. The attached letter is the initial objection.

- NO
- NO
- NO
- ☐ Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and
 - ☐ Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.
 - ☐ The property meets the following criteria for a Vested Right under the current UDC:
 - a) The initial application for development approval was made by the applicant and approved by the City;
 - b) The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;
 - c) The applicant has proceeded in good faith; and
 - d) No approvals or permits have lapsed or been revoked; or
 - e) Other Vested Rights - Entitlement to development approval on the basis of other vested rights under any applicable state law

NOTES

This is a zoning correction.
The house is taxed as residential property.

Comprehensive Plan identifies the property as Medical

Recommended zoning includes NC, GC, OT, MS, RT, RM, PD

The property is a small vacant lot flanked by two single-family homes on either side. Nearby uses are dominated by single-family and rural uses. The completion of the Hwy 61 Extension is at least four years off. The OT zoning on this and adjacent lots makes the two adjoining houses nonconforming structures and uses.

ADMINISTRATIVE USE ONLY

☐ Administrative Approval

Date

☒ Remanded to the Planning Commission/City Council

7/10/20

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____



Planning & Zoning

Community Development Department

ZA-03-20

Council Ward: 3

Planning Board Member: Tom Flowers

City Council Member: Leslie McPherson

Public Hearing Dates

Planning Commission: September 1, 2020

City Council: October 13, 2020

Request: Appeal to a city-initiated rezoning in order to keep the Office-Institutional (OI) zoning category currently in effect as an alternative to the proposed R1 Single-Family Suburban zone in the new Zoning Ordinance.



Applicant: Ellen Wynn McBrayer
11003 Hardwood Cir
Villa Rica, GA 30180

Parcel Number(s): V04 0120048
Acres: 0.65
Current Land Use: Vacant
Future Development: Medical Character Area

Location: Herrell Road, in Land Lot 193 of the 6th District in Carroll County.

Project Description:

The applicant is requesting an appeal to the proposed rezoning of the property from Office-Institutional (OI) to Single-Family Suburban (R1).

Surrounding Properties:

Current Zoning		Land Use
North	Single-Family Suburban (R1)	Single-Family Home
East	Single-Family Agricultural (AG)	Assisted Living Facility
South	Single-Family Suburban (R1)	Single-Family Home
West	Single-Family Suburban (R1)	Single-Family Home

Vested Rights Review Standards:

The Unified Development Code states in Section 2.03L.1, "The vested rights determination procedure is intended to determine whether an applicant has acquired a protected status that requires the City to permit a development to proceed contrary to existing or amended land use regulations. The procedure establishes a limit on the duration of all development approvals to avoid unproductive investment in public facility system capacities". The application shall be denied unless the applicant demonstrates compliance with the following criteria:

I. The initial application for development approval was made by the applicant and approved by the City;

No development application has been submitted to the city based on our records.

II. The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;

The city has encouraged the applicant to submit any and all relevant data to establish a vested right. No data has been submitted.

III. The applicant has proceeded in good faith; and

The applicant has submitted an appeal and cover letter to support their position. The applicant has acted in good faith.

IV. No approvals or permits have lapsed or been revoked; or

The property does not have any approvals or permits that have lapsed as no applications have been submitted.

V. Other Vested Rights – Entitlement to development approval on the basis of other vested rights under any applicable state law.

No entitlements have presented themselves.

Furthermore, additional criteria for a UDC Text Amendment and Zoning Map Amendment are as follows:

i) The existing zoning was in error at the time of adoption; or

The existing zoning is not considered to be in an error at the time of adoption. The property has been zoned OI for at least fifteen years and is boarded to the north and south by properties that are residential single-family in nature. The subject lot is vacant. It can be reasonably derived that the OI zoning category was applied to accommodate the medical uses along Dallas Highway. The property has not developed since the OI zone has been applied.

ii) The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or

The change is not consistent with the Comprehensive Plan. The Comprehensive Plan designates this area as “Medical Character Area”, which recommends the zoning as Neighborhood Commercial (NC), General Commercial (GC), Office Institutional (OI), Medical Support Overlay District (MS), Residential Townhome (RT), “existing residential”, Residential Multi-Family (R14), and Planned Development (PD). The Medical Support Overlay District zoning category was never applied to any previous zoning maps.

The natural successor to the OI zone in the 2020 zoning ordinance is the OMI zone. The subject property would be considered a nonconforming property should it be zoned to OMI, as the minimum lot size would not meet the requirements of that zone. In addition, it would constitute spot zoning as there’s no OMI zoned property nearby (the property is entirely surrounded by single-family zoned properties with three out of four properties with active single-family uses). The R1 zone, which is proposed for this property, would be a natural progression from the R1-zoned areas directly to the north, south and west of the property. The surrounding area is overwhelmingly residential in nature, with two medical properties in close proximity (an assisted living and rehab center).

The intent and purposes of the Medical Character Area in the Comprehensive Plan can be met by the property, and the minimum lot size and width all conform to the standards set forth in the OI and R1 zones, but not the new OMI Zone. The creation of a nonconforming lot under the OMI Zone would not be in-kind with the goals and objectives of the Comprehensive Plan.

Single-family residential zones were not included in the above-cited list of zones appropriate for the Medical Character Area. The Comprehensive Plan does mention “existing residential” is an appropriate land use category, but does not indicate a specific zone. Being that the property is vacant and no existing residential structures are on the property, it can be confirmed that the change would not be consistent with the Comprehensive Plan from a use standpoint, however from a bulk regulations standpoint, the change would be consistent with the Comprehensive Plan because of the conformity of the minimum lot size to the R1 zone standards.

		<u>Property Specs</u>	<u>OI Zone (UDC)</u>	<u>OMI Zone</u>	<u>R1 Zone</u>
Minimum Lot Size	Lot	0.35 acres (15,426 sq ft)	14,000 sq. ft.	1 Acre	15,000 sq. ft.
Minimum Lot Width	Lot	104'+ (estimate)	100'	60'	85'
Use		N/A	N/A	N/A	N/A

iii) There is a community need for and benefit from the proposed rezoning; or

A specific community need or benefit to the property being zoned residential is the conformity to the remaining uses in the area. The properties to the north, south and west are all single family. Developing a commercial use under the OMI zoning category in on an undersized lot would not be beneficial to cohesive development and would not preserve the character of the residential areas surrounding the property. Development of the lot as residential under the R1 zone would preserve the residential nature of the surrounding lots.

iv) The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or

The change is consistent with the surrounding residential uses on the east side of Herrell Road.

v) The proposed zoning is compatible with the zoning and uses of property nearby; or

The property is located in a transitional area that has uses that are commercial in nature along Dallas Highway and primarily residential uses along Herrell Road. There is a vacant 54.98-acre property on the east side of the road that separates the assistant living facility from the residential homes on Herrell Road, and a rehabilitation center on 6.66 acres on the northwest corner of Dallas Highway and Herrell Road that supports the other medical uses in the area, including Tanner Medical Center. The growing medical area to the south Herrell Road has expanded to include previously residential structures along Dallas Highway, but not Herrell Road. Other than the rehabilitation center, which is on a large parcel and faces Dallas Highway, the entirety of Herrell Road is residential. The proposed R1 zoning is compatible with the zoning and uses of all properties facing Herrell Road.

vi) The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and

The OMI zoning category, which supersedes the OI Zone, would not be suitable for the development of uses permitted in that zone, as the minimum lot size is nonconforming. In addition, it is not a logical extension of an existing urban area or growth center, as all surrounding properties are single-family and zoned accordingly.

vii) Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

The property has full access to all services offered by the City of Villa Rica in addition to Carroll County fire protection.

viii) Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and

Herrell Road is classified as a local road by standards set forth by the city's Comprehensive Plan. The authorized uses can contribute to increased traffic. Single-family homes are one of the smallest trip generators individually than almost any other land use. A change to the OMI zone authorizes medical offices, pharmacies and other businesses that require frequent trips. The capacity and safety of the network would be negatively affected by an increased number of trips. The street currently does not have curbs, a shoulder, street lighting or sidewalks.

ix) Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.

According to the Georgia Department of Environmental Protection, the state has not identified any streams in this area. The environmental impact of a commercial use under the OI zone on an undersized lot is higher than a residential single-family home.

Staff Comments:

The change from OI to R1 would be in-kind with the character of the surrounding residentially zoned properties. Although Comprehensive Plan does not recommend residential zones in order to fulfill the intent and purposes of the Medical Character Area, the R1 zone is supported by surrounding land uses with single-family zoning. The creation of a spot zoning location would result from the property being rezoned OMI, which is the successor of the OI zone in the new 2020 zoning ordinance. No properties fronting Herrell Road are commercial in use. The property does not meet the minimum lot size in the OMI zone, which is 1 acre. The rezoning of the property as OMI would therefore create a nonconforming lot that would be undersized for the intense uses that are authorized under the zone category.

Recommendation:

DENIAL OF APPEAL

Public Notifications:

As required by *Article 2, Section 2.01* in the Code of the City of Villa Rica, the public has been notified in *Times-Georgian* on **August 18th, 2020**; a sign has been posted on the subject property; and all abutting property owners have received notification via certified mail.

Public Response:

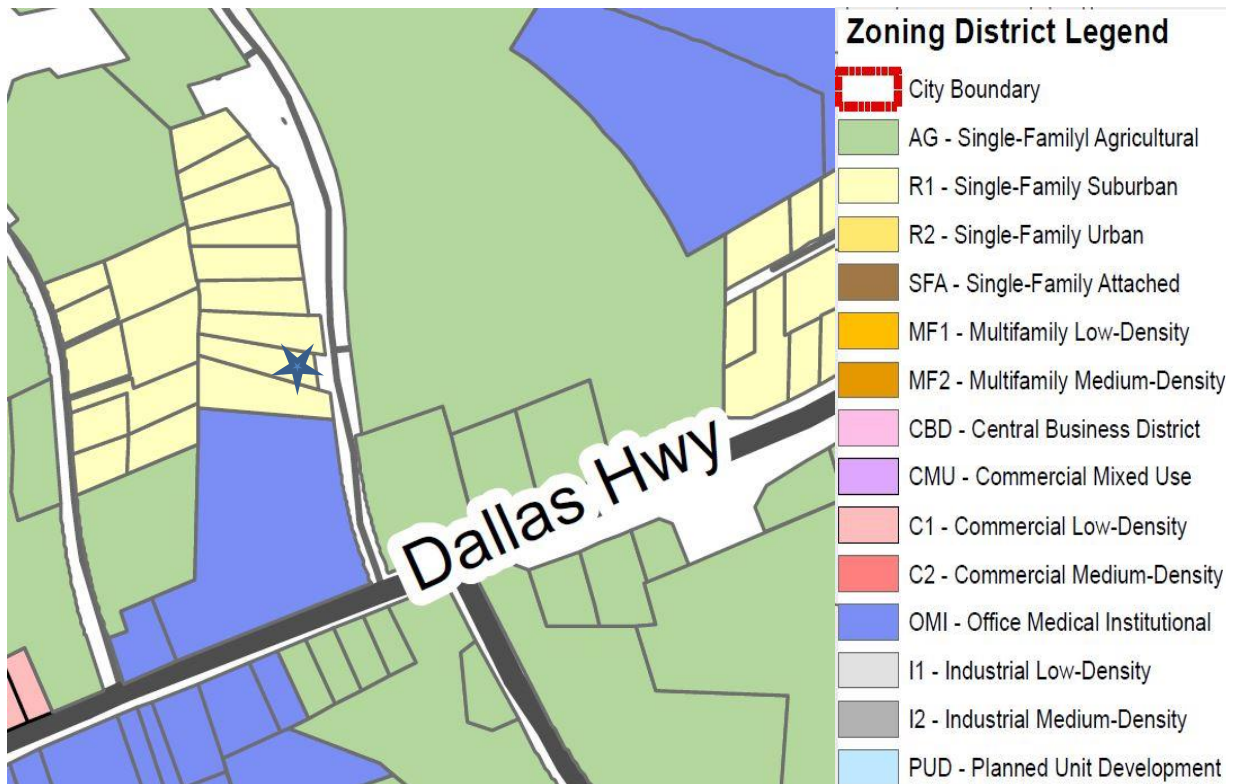
In response to the public notifications, no member of the public has voiced support or opposition to the zoning appeal or rezoning effort concerning this property.

Ronald Johnson, Planning & Zoning Specialist
Department of Community Development

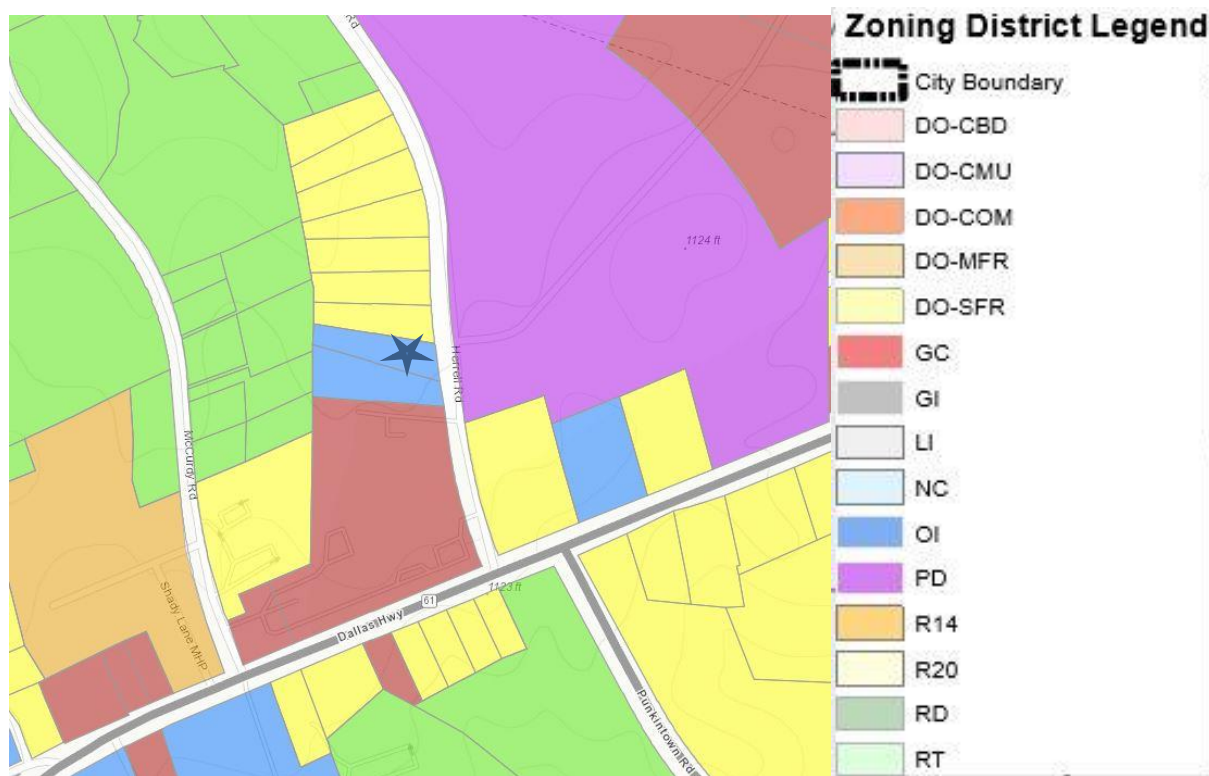
Attachments:

1. Zoning Appeal Evaluation Form
2. Letter from Applicant, dated February 11, 2020
3. Tax Assessor Qpublic Map and Property Record
4. 2020 Zoning Map
5. UDC Zoning Map
6. Future Land Use Map

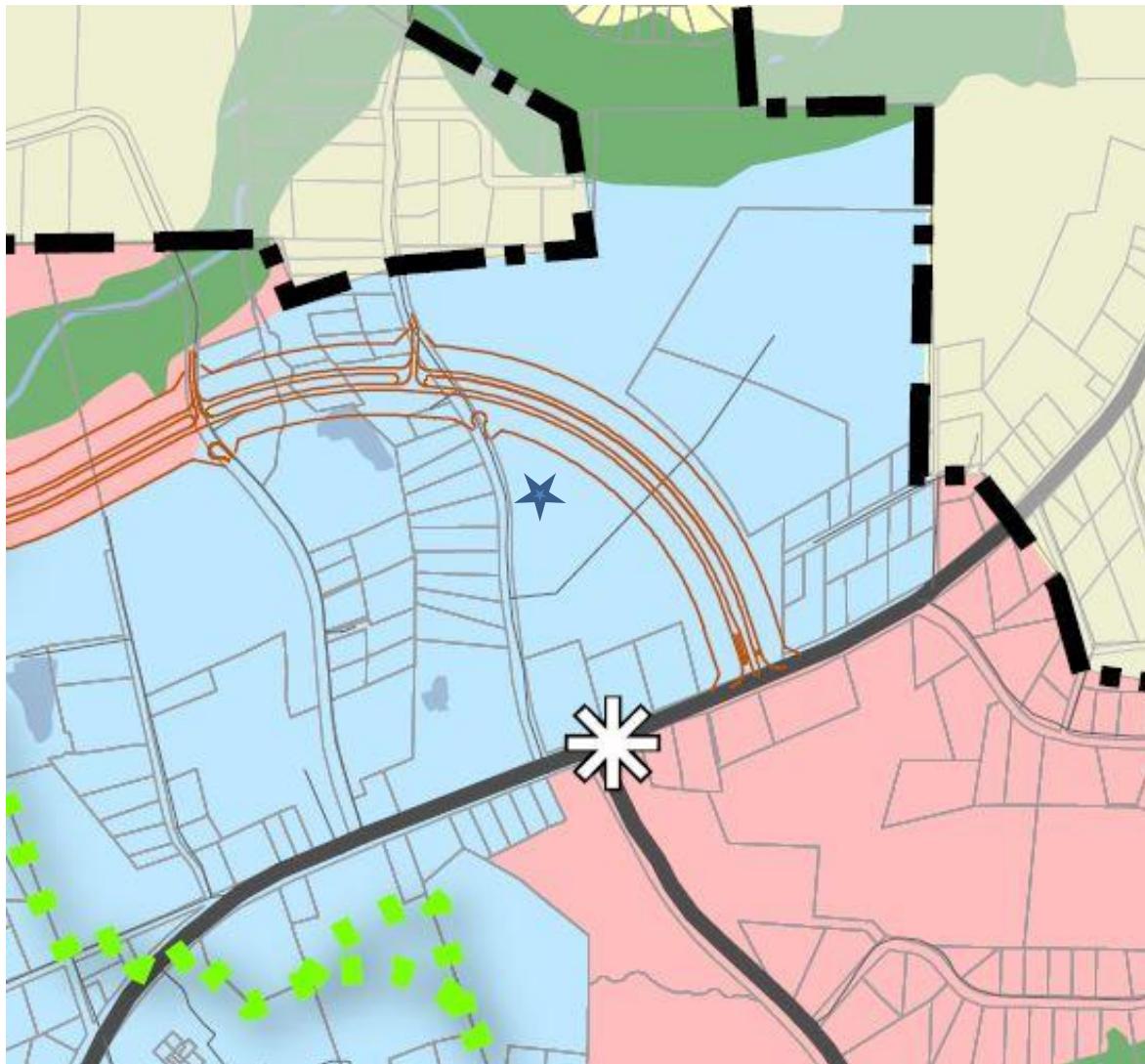
2020 Zoning Map:



UDC Zoning Map:



Future Land Use Map:



CHARACTER AREAS

-  CONSERVATION / OPEN SPACE
-  TRADITIONAL NEIGHBORHOOD
-  SUBURBAN NEIGHBORHOOD
-  URBAN VILLAGE
-  SUBURBAN VILLAGE
-  COMMUNITY CROSSROADS
-  I-20 GATEWAY
-  COMMERCIAL CORRIDOR

ACTIVITY CENTERS

-  DOWNTOWN
-  INDUSTRIAL
-  COMMERCIAL
-  MEDICAL
-  PROPOSED GREENWAY TRAIL
-  PROPOSED ROAD PROJECTS
-  URBAN GROWTH AREA
-  CITY BOUNDARY





CITY OF VILLA RICA

City Council Packet

SUBJECT: Zoning Appeals: 0 Industrial Boulevard (PIN# V02 0770012)

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 16, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: The property owner or his/her representative is appealing the decision by the City to change the zoning classification on the property from GC – General Commercial to I2 – industrial Medium-Density.

BACKGROUND: The zoning classification for the subject property was changed from GC – General Commercial to I2 – Industrial Medium-Density upon adoption of the Villa Rica Zoning Map on August 11, 2020. The property was identified in the zoning audit as being commercially zoned, but historically undeveloped. The initial action of the City was to zone it to AG, but changed to I2, which is consistent with zoning under the Villa Rica Comprehensive Plan. The property owner/representative was notified of the intent to rezone and filed a formal objection. The property owner/representative was contacted by the City with a formal Zoning Appeals Form, which was filed with the City in a timely manner.

Villa Rica Comprehensive Plan:

The Comprehensive Plan indicates the subject property as being in the Industrial Character Area. As such, recommended zoning classifications in the Plan include Light Industrial (LI), Heavy Industrial (HI), and Heavy Commercial (HC) – the modern equivalent would be I-1, I-2, and C-2. To this respect, C-2 *would be* a viable option for zoning for the property.

Land Use Compatibility:

Adjacent Land Uses (not zoning) are public facilities (fire station), multifamily (Hampton Court and Arbor Bend), commercial uses (Advantage Office Solutions – office furniture and supplies), industrial uses (Intex – cloth textile manufacturer), and undeveloped land and single-family residential uses to the southwest. There are no dominant land uses established in this area. The parcel, also undeveloped, to the south is zoned C2. The subject property is highly visible from Hwy 101 – Industrial Boulevard. All of the industrial uses are located behind the frontage along Hwy 101, not immediately enfronting the highway. The traditional development pattern along the corridor from South Carroll Road to the south, across I-20, and north to W. Bankhead Highway are heavy

commercial in nature. The subject property would be a natural progression of commercial uses along the 61/101 corridor.

Environmental Issues:

The presence of floodplain on the property, coupled with the City stream buffers, makes the buildable area of the property non-conducive for a large footprint industrial facility.



Other Considerations:

An industrial use would not benefit from the high-visibility exposure along 61/101. Although the property has access to Leggett Drive to the north, freight access along Industrial Boulevard is better located north of the railroad right-of-way, where the majority of Villa Rica's industrial uses are concentrated. As with a recent distribution warehouse facility being proposed at Industrial Boulevard and Rockmart Road, the subject provides the opportunity for newer more modern commercial facilities, which applies pressure on existing commercial uses to refurbish/refresh to remain competitive in the local market. The City has recently adopted higher density residential zoning, and new multifamily developments are being considered in close proximity to the subject property, coupled with new access provided by the Hwy 61 Bypass, the demand for commercial services will only increase in the future, and commercial expansion along the corridor lends it to subject property.

The Zoning Appeal was heard by the Planning & Zoning Commission on September 1, 2020. The recommendation of the Planning & Zoning Commission was to Approve the Zoning Appeal.

STAFF RECOMMENDATION: Staff recommendation is to Approve the Zoning Appeal and zone the property to C2 – Commercial Medium-Density.

IMPACT: Zoning the property to C2 will continue the commercial development pattern along Hwy61/101, and facilitate the development of modern commercial alternatives.

MOTION:

Motion to Approve the Zoning Appeal for 0 Industrial Boulevard, and zone the parcel to C2 – Commercial Medium Density.

Note to challengers: An official decision to the challenge will be made available no earlier than seventy-five (75) days after the Zoning Challenge process begins. For more information of the Zoning Challenge process contact the Community Development Department at (770) 459-7000.

How is the appellant an aggrieved person?

See attached letter with attachments

(attach additional sheets as required)

ADMINISTRATIVE USE ONLY

Zoning Challenge and Appeal Received: _____

Authorized Representative(s):

Signature and Date

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____



Chris Montesinos, AICP, CME
Deputy Director of Community Development
571 W. Bankhead Highway
Villa Rica, GA 30180

RE: Parcel Identification V020070012

Dear Chris,

This correspondence is in reply to the City of Villa Rica's notice regarding a potential reclassification of the zoning for Parcel V020070012 (21.75 acres). This property is a part of an original 28.65-acre parcel which was purchased and rezoned in 1989 from Light Industrial to C-3 Roadside Commercial (see attached letter). We installed 2 DOT driveways (see attached DOT letter and site plan), donated the Right-of-Way to the City of Villa Rica to facilitate the location of Leggett & Platt, sold 2 parcels to Threads of the South and Advantage Office Supplies, and installed water lines in preparation for future development. This historical perspective clearly demonstrates our vested rights and continuing reliance on the zoning classification granted by the City at its March 7, 1989 council meeting.

Please let me know if you need any additional information and thank you for your assistance in this matter.

Sincerely

Jeff R. Matthews, President
Sunwest Properties, Inc.

RAY BARBER - Mayor
RUSTY DEAN
PAUL FREE

LAZELLE IVEY
CHARLES COLE
J.C. GREEN

City of Villa Rica

P. O. Box 697

Villa Rica, Georgia 30180

CITY HALL — 459-3957

ROBERT P. BARR — CITY MANAGER

March 8, 1989

Mr. Burnell Redding
7971 Highway 78
Villa Rica, GA 30180

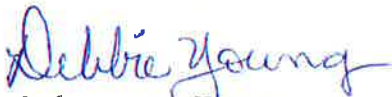
Dear Mr. Redding:

Tuesday evening, March 7, 1989, at its regularly scheduled meeting, the Mayor and City Council of Villa Rica approved the following rezoning application submitted by you:

A parcel consisting of 28.65 acres located on Ga. Highway 101, adjacent to Carroll County Fire Station No. 9, Land Lot 163, District 6, Carroll County, Villa Rica, GA, from I-1 (Light Industrial) to C-3 (Roadside Commercial).

If we can be of further service to you, please contact me.

Sincerely,



Debra B. Young
Community Development Coordinator



Department of Transportation
State of Georgia
Thomaston District Three

1107 Hogansville Road
LaGrange, GA 30240
March 15, 1991

Burnell Redding, Jack Helms, Neal McCreary
East Bankhead Hwy.
Villa Rica, GA 30180

Dear Applicants:

RE: Commercial Driveway Permit # 0687-001-045
State Route 101 M.P. 0.29
Carroll County

As of the above date your \$25,000.00 Letter of Escrow for the above subject permit is being released by the Department of Transportation. All parties concerned are being notified by copy of this letter.

Thank you for your cooperation.

Yours very truly,

Steve Henry
District Maintenance Engineer

Roy A. Wilson

By: Roy A. Wilson
Area Engineer

SH:RAW:lt1

cc: Keith Rohling, District Traffic & Safety Engineer
Bank of Villa Rica, Villa Rica, Georgia 30180

CONTRACT FOR SALE ON REALTY

The undersigned Purchaser agrees to buy, and the undersigned Seller agrees to sell all that tract of land being: 3 Acres to be subdivided from the Northwest Corner of Parcel V02 007 0012 (configuration to be mutually agreed upon).

Including all lighting fixtures attached thereto, and all heating, water heating, and plumbing equipment therein; also, all plants, trees and shrubbery now on the premises. Purchase price of said property to be \$50,000.00 per Surveyed Acre.

Simultaneously with the date of full execution of this Agreement by all parties hereto, Purchaser shall deliver to Escrow Agent Tisinger Vance, P.C. as earnest money deposit in the amount of \$1,000.00 Dollars, (hereinafter referred to as the "Earnest Money"). Escrow Agent shall deposit such cash or said check in an interest-bearing account. In performing all of its duties or responsibilities hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses or expenses, except for willful default or breach of trust, and Escrow Agent shall accordingly not incur any liability with respect to (i) any action taken or omitted in good faith, or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction relating to this Agreement. Seller and Purchaser each hereby agree to indemnify and hold harmless Escrow Agent against any and all loss, liability, claims, demands, damages, actions, causes of action and suits which may be imposed upon Escrow Agent in connection with the performance of its duties hereunder.

At closing, the Purchase Price of the Property shall be paid all in cash, certified or cashiers check, or by wire transfer of federal funds check, and the earnest money, to the extent deposited by Purchaser, shall be applied to the Purchase Price.

Seller agrees to furnish a marketable title to said property and agrees to convey said property by warranty deed to Purchaser at time sale is consummated, subject to: 1. All valid restrictions of record; 2. Zoning ordinances affecting the same; 3. Encumbrances as specified in contract; 4. Existing leases. Purchaser assumes Seller's responsibilities under said leases.

The Purchaser shall have reasonable time after acceptance of this contract in which to examine title and in which to furnish Seller with a written statement of objections affecting the marketability of said title. Seller shall have reasonable time after receipt of such objections to satisfy all valid objections and if Seller fails to satisfy such valid objections within a reasonable time, then at the option of the Purchaser, evidenced by written notice to Seller, this contract shall be null and void.

Seller and Purchaser agree that such papers as may be legally necessary to carry out the terms of this contract shall be executed and delivered by such parties at time sale is consummated.

Seller warrants that when the sale is consummated the improvements on the property will be in the same condition as they are on the date this contract is signed by the Seller, natural wear and tear excepted. However, should the premises be destroyed or substantially damaged before the contract is consummated, then, at the election of the purchaser: (a) The contract may be cancelled; (b) Purchaser may consummate the contract and receive such insurance as is paid on the claim of loss. This election is to be exercised within ten (10) days after the amount of the Seller's damage is determined.

This contract constitutes the sole and entire agreement between the parties hereto and no modification of this contract shall be binding unless attached hereto and signed by all parties to this agreement. No representation, promise, or inducement not included in this contract shall be binding upon any party hereto.

Time is of the Essence in this contract.

The following stipulations shall, if conflicting with printed matter, control:

SPECIAL STIPULATIONS

1. Real estate taxes on said property shall be paid by prorated as of the date of closing.
2. Sales shall be closed on or before 180 days.
3. Possession of premises shall be granted by Seller to Purchaser no later than closing.
4. Seller shall pay State of Georgia property transfer tax.


CONNIE WOOD PURCHASER


CINDY TOLBERT PURCHASER


DIANNE FORTNER PURCHASER

The above proposition is hereby accepted this 25th day of Feb, 2020.


BURNELL REDDING, MEMBER SELLER


JEFF R. MATTHEWS, MEMBER SELLER



Zoning Appeal Evaluation Form

for Zoning Appeals received within sixty (60) days of
the adoption of the Villa Rica Zoning Ordinance

Property Information

Carroll **0** **Industrial Boulevard**

County House No. Street Name

V02 0770012 **21.75**

Parcel ID Number Total Acreage

Current Zoning: **GC – General Commercial**

Proposed Zoning: **AG – Single-Family Agricultural**

Challenger Information

Matthews, Jeff

Redding, Burnell

Last Name First Name MI

PO Box 324, Villa Rica, GA 30180

Mailing Address (if different from property address)

matthewsjeffr@gmail.com

(770) 459-2222

Email Daytime Phone Number

REVIEW CRITERIA – CHECK ALL THAT APPLY

- ☐ The existing zoning was in error at the time of adoption; or
- ☐ The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or
- ☐ There is a community need for and benefit from the proposed rezoning; or
- ☐ The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or
- ☐ The proposed zoning is compatible with the zoning and uses of property nearby; or
- ☐ The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and
- ☐ Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

Yes
No
Yes
Yes
Yes
Yes

NO
NO
NO

- ☐ Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and
- ☐ Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.
- ☐ The property meets the following criteria for a Vested Right under the current UDC:
 - a) The initial application for development approval was made by the applicant and approved by the City;
 - b) The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;
 - c) The applicant has proceeded in good faith; and
 - d) No approvals or permits have lapsed or been revoked; or
 - e) Other Vested Rights - Entitlement to development approval on the basis of other vested rights under any applicable state law

NOTES Comprehensive Plan identifies property as Industrial
Recommended zoning LI, HI, HC
HC is the older equivalent to the more intensive
uses of C2. However HC was never
zoned onto the zoning map and C2
maybe more reflective of the current GL.

ADMINISTRATIVE USE ONLY	
☐ Administrative Approval	Date
☒ Remanded to the Planning Commission/City Council	7/13/20
Tom Barber, City Manager _____	
Bobby Elliott, Community Development Director _____	
Chris Montesinos, CD Deputy Director  _____	
Ron Johnson, CD Planning & Zoning Specialist _____	
C. David Mecklin, City Attorney _____	



Planning & Zoning

Community Development Department

ZA-02-20

Council Ward: 5

Planning Board Member: Mac Pilgrim

City Council Member: Danny Carter

Public Hearing Dates

Planning Commission: September 1, 2020

City Council: October 13, 2020

Request: Appeal to a city-initiated rezoning in order to keep the General Commercial (GC) zoning category currently in effect as an alternative to the proposed Industrial Medium-Density Zone (I2) in the new Zoning Ordinance.



Applicant: Jeff Matthews
Burnell Redding
PO Box 324
Villa Rica, GA 30180

Parcel Number(s): V02 0770012
Acres: 21.5
Current Land Use: Vacant
Future Development:
Industrial/Conservation/Open Space

Location: Industrial Boulevard, in Land Lot 162 of the 6th District in Carroll County.

Project Description:

The applicant is requesting an appeal to the proposed rezoning of the property from General Commercial (GC) to Industrial Medium-Density (I2).

Surrounding Properties:

Current Zoning		Land Use
North	Industrial Medium-Density (I2)	Industrial/Vacant
East	Multi-Family Low-Density (MF1)	Multi-Family Apartments
South	Commercial Medium-Density (C2)	Fire Department/Vacant
West	Industrial Medium-Density (I2)	Industrial

Vested Rights Review Standards:

The Unified Development Code states in Section 2.03L.1, "The vested rights determination procedure is intended to determine whether an applicant has acquired a protected status that requires the City to permit a development to proceed contrary to existing or amended land use regulations. The procedure establishes a limit on the duration of all development approvals to avoid unproductive investment in public facility system capacities". The application shall be denied unless the applicant demonstrates compliance with the following criteria:

I. The initial application for development approval was made by the applicant and approved by the City;

No development application has been submitted to the city based on our records.

II. The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;

The city has encouraged the applicant to submit any and all relevant data to establish a vested right, and the applicant has submitted the following documents:

- A letter dated March 8, 1989 from Debra B. Young, Community Development Coordinator for the City of Villa Rica confirming an approval of a rezoning application from I-1 (Light Industrial) to C-3 (Roadside Commercial).
- A letter dated March 15, 1991 from Roy A. Wilson, Area Engineer for the Georgia Department of Transportation (GDOT) confirming the release of a \$25,000 escrow in connection with two Commercial Driveway Permit.
- A signed and dated February 25th, 2020 Contract For Sale for 3 acres of the subject property.

III. The applicant has proceeded in good faith; and

The applicant has submitted an appeal and cover letter to support their position. The applicant has acted in good faith.

IV. No approvals or permits have lapsed or been revoked; or

The property does not have any approvals or permits that have lapsed as no applications have been submitted.

V. Other Vested Rights – Entitlement to development approval on the basis of other vested rights under any applicable state law.

No entitlements have presented themselves.

Furthermore, additional criteria for a UDC Text Amendment and Zoning Map Amendment are as follows:

i) The existing zoning was in error at the time of adoption; or

The existing zoning is not considered to be in an error at the time of adoption. Based on the 1989 confirmation letter from the City, it appears that a rezoning application was submitted for this property to change from an industrial classification to a medium to high intensity commercial classification and was subsequently approved.

ii) The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or

The change is consistent with the Comprehensive Plan. The Comprehensive Plan designates this area as “Industrial Character Area”, which recommends the zoning as Light Industrial (LI), Heavy Industrial (GI), and Heavy Commercial (HC). The Heavy Commercial and Heavy Industrial zoning category was never applied to any previous zoning maps. The most equivalent zoning categories that were applied to previous zoning maps were “General Commercial” and “General Industrial”. With the adoption of the 2020 Zoning Ordinance, these categories are being replaced with the Industrial Low-Density (I1), Industrial Medium-Density (I2), and Commercial Medium-Density (C2) zoning categories.

The Industrial Medium-Density (I2) or the Commercial Medium Density (C2) category is the most appropriate of these new zones to be applied to the property as the intent and purposes of the Industrial Character Area and Commercial Character Area in the Comprehensive Plan can be met by the property, and the minimum lot size and width all conform to the standards set forth in the I2 and C2 zones. The property currently meets all applicable bulk regulations for the General Commercial Zone. Although the Comprehensive Plan does not specify “General Commercial” as a zoning category in the document, it can be reasonably derived that the General Commercial Zone and the Heavy Commercial Zone are equivalent. Under that assumption, the current General Commercial Zone (and its successor C2 Zone) are consistent with the city’s Comprehensive Plan.

	<u>Property Specs</u>	<u>Industrial Low-Density (I1) Zone</u>	<u>Industrial Medium-Density (I2) Zone</u>	<u>Commercial Medium-Density (C2) Zone</u>	<u>General Commercial (GC) (UDC)</u>
Minimum Lot Size	21.5 Acres	1 Acre	5 Acres	2.5 Acres	20,000 sq. ft.
Minimum Lot Width	1000'+ (estimate)	100'	150'	100'	100'
Use	N/A	N/A	N/A	N/A	N/A

In addition, the Comprehensive Plan designates sections of the lot as “Conservation/Open Space”, which recommends the zoning as “WRD – Water Resource District”, “FH- Flood

Hazard", and indicates the character area is applicable to various zoning districts. The WRD and FH zoning categories were never created or utilized in the UDC or the zoning map.

iii) There is a community need for and benefit from the proposed rezoning; or

A specific community need or benefit to the property being zoned industrial or commercial has not been identified.

iv) The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or

The property has access to water and sewage services. All other public facilities are supplied by the City of Villa Rica. The road capacity on Industrial Boulevard is not currently conducive to high intensity industrial or commercial land uses. Leggett Drive is a "dead end" street. Several light industrial buildings on the north side of Leggett Drive, along with an industrial facility for Intex at 100 Leggett Drive, the street to enter and exit onto Highway 101. No left turn lane exists for traffic traveling northbound, although a southbound deceleration lane is present. No commercial uses are located on Industrial Boulevard north of Highway 78 or on Leggett Drive.

v) The proposed zoning is compatible with the zoning and uses of property nearby; or

Properties to the north of the subject property are all zoned Industrial, as well as all properties west of the property and along Leggett Drive. Properties to the south are zoned Commercial Medium-Density (C2) and properties across Industrial Boulevard are zoned Multi-family low-density. The uses across Industrial Boulevard are exclusively multifamily apartment homes. The land south of the property is split into two parcels, one is vacant and the other is the Carroll County Fire Department. The remaining lands to the north and west are vacant or have industrial uses in operation.

The proposed Industrial Medium-Density (I2) zoning district is compatible to the uses on the north, south and west of the property, and consistent with the zoning to the north and west of the property.

vi) The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and

The current General Commercial zoning category is suitable for the development of more high intensity commercial uses that extend south of W. Bankhead Highway along Highway 101/61. From a land use standpoint, this property, along with the property directly south of the subject property, would be ideal extensions to the existing commercial area. The same can be said for industrial usage as a natural extension from the northern and western areas that are zoning industrial.

Highway 61/101 acts as a buffer from the residential uses to the east. The property would not be appropriate for multi-family usage as no buffer currently exists from the industrially zoned properties to the north and west.

vii) Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks

and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

The property has full access to all services offered by the City of Villa Rica in addition to Carroll County fire protection.

viii) Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and

Any intense development of the site will have an adverse effect on the safety network of the street, and any large development would require traffic improvements at the Leggett Drive and Highway 101 intersection. The intersection currently does not have a left-hand turn lane when traveling northbound, and making entrance and exit from the subject lot would be difficult on Highway 101. Highway 101 is a one lane road in each direction and any left-hand turn lane would queue traffic. Also, making left hand turns to travel north on Highway 101 from the property or Leggett Drive would be difficult for any truck or automobile traffic.

ix) Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.

According to the Georgia Department of Environmental Protection, the state has identified a stream that traverses the property from northeast to southwest. The property is subject to the city's 75' and 50' stream buffers, in addition to the state's 25' stream buffer ordinance.



Staff Comments:

In keeping with the goals and objectives of the Comprehensive Plan, and in kind with established planning principles and “good practice”, the Future Land Use Map Plan acknowledges the entirety of the area west of Highway 101 and north of the Carroll County Fire Department as “Industrial” Character Area. As indicated in the Comprehensive Plan, this area is intended to “enhance and create concentrated industrial uses that minimize disruption of normal traffic flow”.

This character area also encourages large building footprints, lots in excess for five acres and future land uses consisting of limited and heavy industrial uses as well as “heavy commercial”.

Industrial and Commercial land classifications are in-kind with the goals and objectives classified within the Industrial Character Area. The owner has submitted documentation of a contract to subdivide the property and remove 3 acres, but as indicated at the September 1, 2020 Planning Commission Meeting, that contract is now void.

Recommendation:
DENIAL OF APPEAL

Public Notifications:

As required by *Article 2, Section 2.01* in the Code of the City of Villa Rica, the public has been notified in *Times-Georgian* on **August 18th, 2020**; a sign has been posted on the subject property; and all abutting property owners have received notification via certified mail.

Public Response:

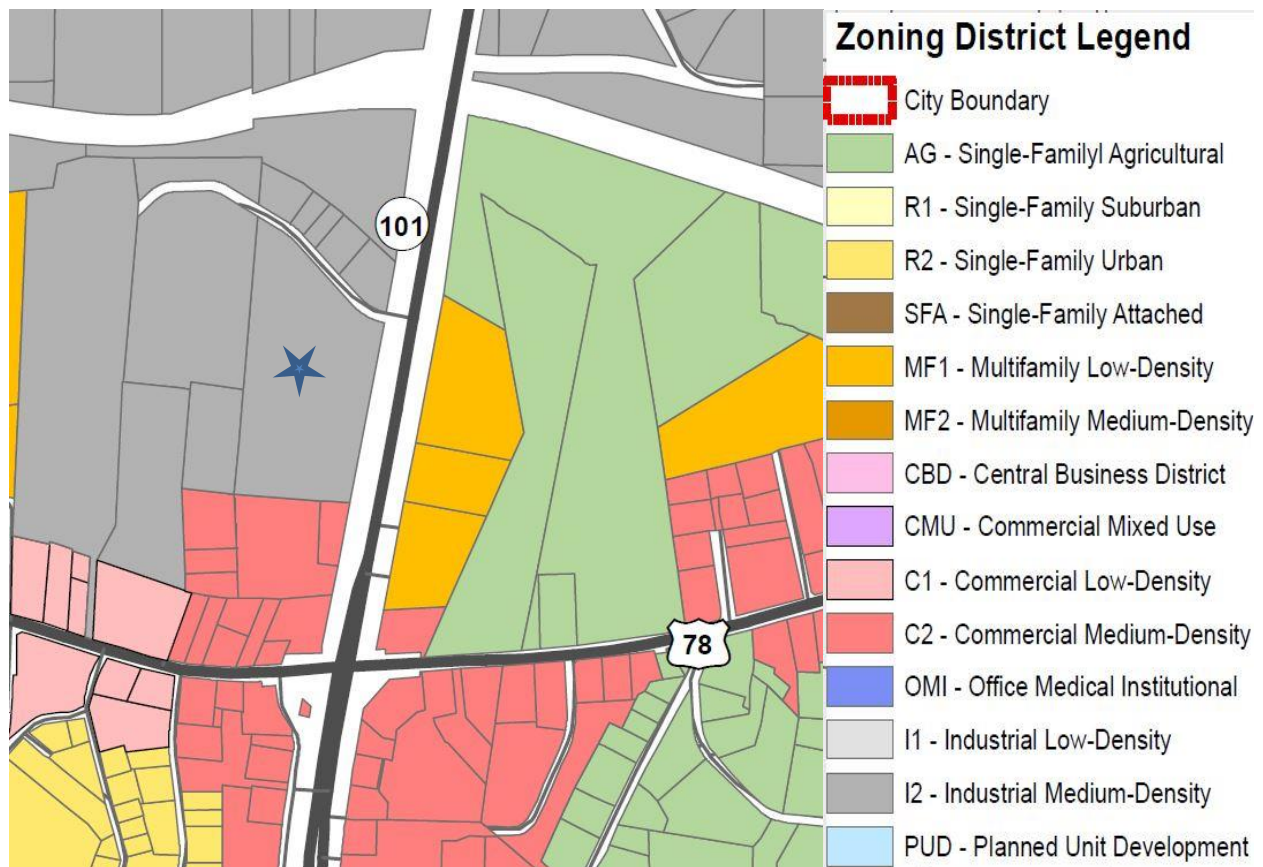
In response to the public notifications, no member of the public has voiced support or opposition to the zoning appeal or rezoning effort concerning this property.

Ronald Johnson, Planning & Zoning Specialist
Department of Community Development

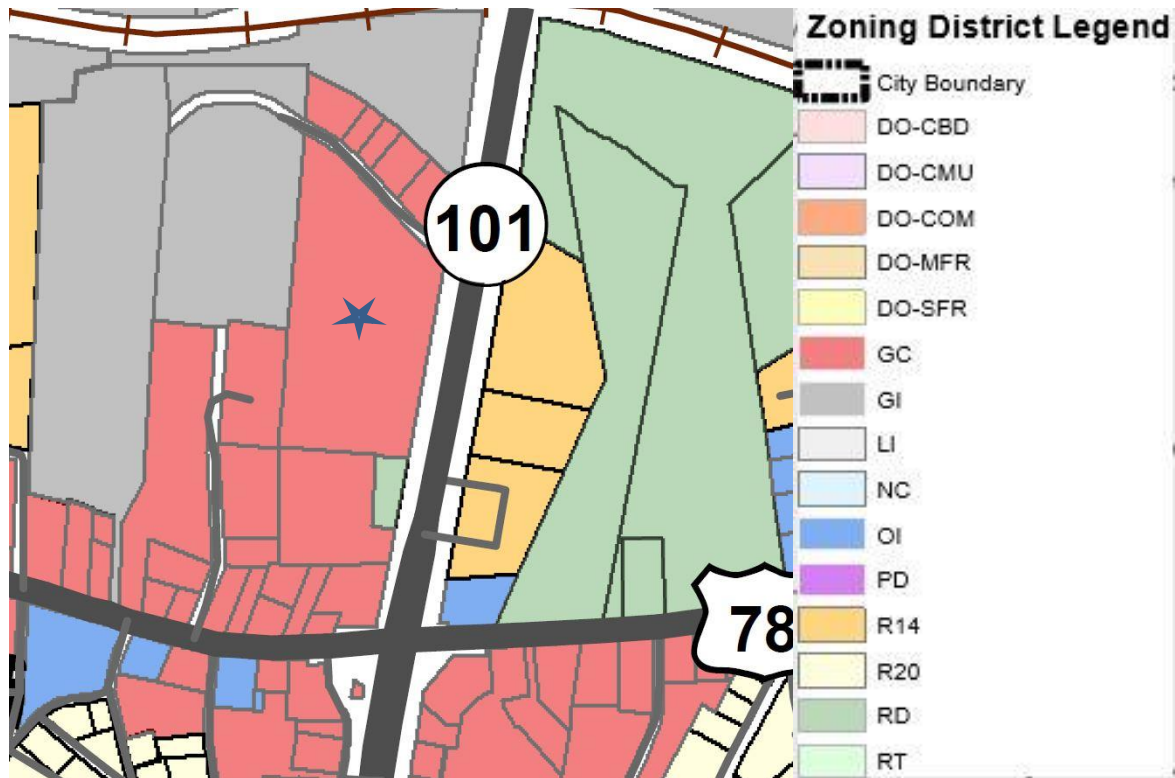
Attachments:

1. Zoning Appeal Evaluation Form
2. Zoning Challenge and Appeal Form
3. Letter from Applicant, dated undated
4. Tax Assessor Qpublic Map and Property Record
5. 2020 Zoning Map
6. UDC Zoning Map
7. Future Land Use Map
8. Letter dated March 8, 1989 from Debra B. Young, Community Development Coordinator for the City of Villa Rica confirming an approval of a rezoning application from I-1 (Light Industrial) to C-3 (Roadside Commercial).
9. Letter dated March 15, 1991 from Roy A. Wilson, Area Engineer for the Georgia Department of Transportation (GDOT) confirming the release of a \$25,000 escrow in connection with two Commercial Driveway Permit.
10. Signed and dated February 25th, 2020 Contract For Sale for 3 acres of the subject property.

2020 Zoning Map:



UDC Zoning Map:



Future Land Use Map:



CHARACTER AREAS

-  CONSERVATION / OPEN SPACE
-  TRADITIONAL NEIGHBORHOOD
-  SUBURBAN NEIGHBORHOOD
-  URBAN VILLAGE
-  SUBURBAN VILLAGE
-  COMMUNITY CROSSROADS
-  I-20 GATEWAY
-  COMMERCIAL CORRIDOR

ACTIVITY CENTERS

-  DOWNTOWN
-  INDUSTRIAL
-  COMMERCIAL
-  MEDICAL
-  PROPOSED GREENWAY TRAIL
-  PROPOSED ROAD PROJECTS
-  URBAN GROWTH AREA
-  CITY BOUNDARY





CITY OF VILLA RICA

City Council Packet

SUBJECT: Zoning Appeals: 0 Sugar Hill (PIN# V03 0090001)

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: The property owner or his/her representative is appealing the decision by the City to change the zoning classification on the property from LI – Light Industrial to R2 – Single-Family Urban.

BACKGROUND: The zoning classification for the subject property was changed from LI – Light Industrial to R2 – Single-Family Urban upon adoption of the Villa Rica Zoning Map on August 11, 2020. The property was identified in the zoning audit as having a zoning classification on the property that was inconsistent with its current use and historical development pattern in the surrounding area. The property owner/representative was notified of the intent to rezone and filed a formal objection. The property owner/representative was contacted by the City with a formal Zoning Appeals Form, which was filed with the City in a timely manner. The Appeal did not qualify for an Administrative Adjustment due to the following reasons:

- The zoning at the time of appeal was inconsistent with the recommended zoning in the Villa Rica Comprehensive Plan.
- The property is a vacant parcel, is not being taxed as an industrial use, and has no permits, licenses, or applications pending with the City for a commercial use.
- The property owner did not meet the Vested Rights criteria under the Unified Development Code.
- The subject property does not meet the minimum lot size requirements (5ac) under I2 zoning.

The Zoning Appeal was heard by the Planning & Zoning Commission on September 1, 2020. The recommendation of the Planning & Zoning Commission was to Deny the Zoning Appeal.

STAFF RECOMMENDATION: Staff recommendation is to deny the Zoning Appeal and allow the property to remain in the R2 – Single-Family Urban zoning district.

IMPACT: Zoning the property to R2 will encourage the development of single-family residential infill, and prevent further encroachment of industrial uses into an established single-family residential neighborhood.

MOTION: Motion to deny the Zoning Appeal for 0 Sugar Hill Street, and maintain the current R2 zoning classification.



Zoning Appeal Evaluation Form

for Zoning Appeals received within sixty (60) days of
the adoption of the Villa Rica Zoning Ordinance

Property Information

Carroll **0** **Sugar Hill Street**

County House No. Street Name

V03 0090001 **0.14 Acres**

Parcel ID Number Total Acreage

Current Zoning: **G-I – General Industrial**

Proposed Zoning: **R2 – Single Family Urban**

Challenger Information

Wright **James** **W.**

Last Name First Name MI

911 Sugar Hill Street, Villa Rica, GA 30180

Mailing Address (if different from property address)

(678) 365-8565

Email Daytime Phone Number

REVIEW CRITERIA – CHECK ALL THAT APPLY

- ☐ The existing zoning was in error at the time of adoption; or
- ☐ The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or
- ☐ There is a community need for and benefit from the proposed rezoning; or
- ☐ The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or
- ☐ The proposed zoning is compatible with the zoning and uses of property nearby; or
- ☐ The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and
- ☐ Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

- ☐ Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and
☐ Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.
☐ The property meets the following criteria for a Vested Right under the current UDC:
 - The initial application for development approval was made by the applicant and approved by the City;
 - The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;
 - The applicant has proceeded in good faith; and
 - No approvals or permits have lapsed or been revoked; or
 - Other Vested Rights - Entitlement to development approval on the basis of other vested rights under any applicable state law

NOTES

Comprehensive Plan identifies property as Traditional Neighborhood
 Recommended zoning is R-20, R-14, RT
 There are no permits, applications, or licenses for industrial uses on file
 Adjacent uses are residential/Industrial uses to the west are bisected by the railroad spur.
 The property is in code violation and court action is pending

ADMINISTRATIVE USE ONLY

☐ Administrative Approval

Date

☒ Remanded to the Planning Commission/City Council

7/13/20

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____

James W. Wright

911 Sugar Hill Street
Villa Rica, Georgia 30180

January 31, 2020

City of Villa Rica
ATTN: Depart of Community Development
571 W. Bankhead Highway
Villa Rica, GA 30180

RE: Parcel ID No.: V03 0090001 - 0 Sugar Hill Street Zoning Notification

Gentlemen:

I am in receipt of your letter of January 6, 2020 which proports to indicate that the City of Villa Rica desires to rezone my property at 0 Sugar Hill Street, Villa Rica from G1 – General Industrial to R2 – Single-Family Residential. The letter notifying me of the proposed change indicates that the property is vacant. However, that is not the case inasmuch as the property is being used for industrial purposes as is the property that is adjacent to this property and said has been used for business purposes for some period of time. There is actually a storage facility being operated out of this property at the present time.

The rezoning of this property would result in a diminishment of the market value of the property itself inasmuch as the utilization of the property would be changed for a use that is less valuable than its current utilization.

In addition, the City of Villa Rica is aware of the fact that the adjoining property owner and I have been litigating over a number of lots that are adjacent to 0 Sugar Hill Street which I claim to own. This litigation has not yet been completed and the Carroll Board of Tax Assessors' unilateral action in changing ownership on their record cards does not, in fact, legally change the legal ownership of said property.

I object to the rezoning of my property on the basis that there has been no change in the utilization of this property, that this property is suitable for and has been utilized for industrial purposes for a number of years. I would also point out that there has been no significant change in the utilization of property in this area since its original zoning.

I further believe that the rezoning of my property constitutes spot zoning and has nothing to do with the City of Villa Rica's desire to preclude industrial encroachment upon a residential neighborhood.

I object to the City of Villa Rica rezoning my property of 0 Sugar Hill Street from its current utilization of G1 – General Industrial to R2 – Single-Family Residential as the rezoning constitutes the taking of my property and the value thereof without the payment of adequate compensation as provided by the United States Constitution and Constitution of the State of Georgia.

Sincerely,

James W. Wright



Zoning Challenge and Appeal Form

(for approved applications)

Property Information

Carroll **0** **Sugar Hill Street**

County House No. Street Name

V03 0090001 **0.46**

Parcel ID Number Total Acreage

Current Zoning: **GI – General Industrial**

Proposed Zoning: **R2 – Single-Family Urban**

Challenger Information

☐ Owner ☐ Owner-Representative ☐ Affiliated Organization _____

Last Name First Name MI

Mailing Address (if different from property address)

Email Daytime Phone Number

Note: Use the form ONLY for challenges related to the Zoning Resolution.

Select one: ☐ Initial Challenge ☐ Appeal to a previously denied challenge
(denied challenge must be attached)

_____ Indicate the total number of pages submitted, including attachments
(attachments may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

Note to challengers: An official decision to the challenge will be made available no earlier than seventy-five (75) days after the Zoning Challenge process begins. For more information of the Zoning Challenge process contact the Community Development Department at (770) 459-7000.

How is the appellant an aggrieved person?

Written statement received in lieu of a Zoning Appeals Form.

(attach additional sheets as required)

ADMINISTRATIVE USE ONLY

Zoning Challenge and Appeal Received: _____

Authorized Representative(s):

Signature and Date

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____



Planning & Zoning

Community Development Department

ZA-01-20

Council Ward: 3

Planning Board Member: Tom Flowers

City Council Member: Leslie McPherson

Public Hearing Dates

Planning Commission: September 1, 2020

City Council: October 13, 2020

Request: Appeal to a city-initiated rezoning in order to keep the industrial zoning category currently in effect as an alternative to the proposed R2 Single-Family Urban Zoning District in the new Zoning Ordinance.



Applicant: James W. Wright
911 Sugar Hill Street
Villa Rica, GA 30180

Parcel Number(s): V03 0090001
Acres: 0.14 Acres (~6098 Sq. Ft.)
Current Land Use: Vacant
Future Development: Traditional Neighborhood

Location: Sugar Hill Street, in Land Lot 191 of the 6th District in Carroll County.

Project Description:

The applicant is requesting an appeal to the proposed rezoning of the property from General Industrial (GI) to Single Family Urban (R2).

Surrounding Properties:

Current Zoning		Land Use
North	Industrial Low-Density (I1)	Industrial
East	Single-Family Urban (R2)	Single-Family Home
South	Single-Family Urban (R2)	Single-Family Home
West	Industrial Medium-Density (I2)	Industrial

Vested Rights Review Standards:

The Unified Development Code states in Section 2.03L.1, "The vested rights determination procedure is intended to determine whether an applicant has acquired a protected status that requires the City to permit a development to proceed contrary to existing or amended land use regulations. The procedure establishes a limit on the duration of all development approvals to avoid unproductive investment in public facility system capacities". The application shall be denied unless the applicant demonstrates compliance with the following criteria:

I. The initial application for development approval was made by the applicant and approved by the City;

No development application has been submitted to the city based on our records.

II. The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;

The city has encouraged the applicant to submit any and all relevant data to establish a vested right, and has not received any documents or data to that effect.

III. The applicant has proceeded in good faith; and

The applicant has submitted an appeal and cover letter to support their position. The applicant has acted in good faith.

IV. No approvals or permits have lapsed or been revoked; or

The property does not have any approvals or permits that have lapsed as no applications have been submitted.

V. Other Vested Rights – Entitlement to development approval on the basis of other vested rights under any applicable state law.

No entitlements have presented themselves.

Furthermore, additional criteria for a UDC Text Amendment and Zoning map Amendment are as follows:

i) The existing zoning was in error at the time of adoption; or

The existing zoning is considered an error on the basis that the Comprehensive Plan identifies property as Traditional Neighborhood and recommends the zoning as R-20, R-14 or RT, to which none have been applied to this property. Therefore, it can be confirmed that the application of the General Industrial Zoning District on these properties is not supported by the Comprehensive Plan. No industrial use has been in operation on this property in the

past, based on permitting records. All surrounding uses are residential in nature to the south and east, and along the entirety of the block. The industrial-zoned properties are west of the rail spur, which acts as a buffer to the residential properties.

ii) The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or

The change is consistent with the Comprehensive Plan. The Comprehensive Plan designates this area as “Traditional Neighborhood”, which recommends the zoning as R-20 (single-family), R-14 (multi-family) or RT (Residential Townhouse). With the adoption of the 2020 Zoning Ordinance, these categories are being replaced with five residential zones, two of which are single-family zones. The R-2 Single-Family Urban zoning category is the most appropriate of these new zones to be applied to the property as the use and lot width are conforming and the intent and purposes of the Traditional Neighborhood character area in the Comprehensive Plan aligns with the purposes of the R2 Zoning district. The current zoning, General Industrial, is not a recommended zoning category in the Comprehensive Plan and the property does not meet the minimum lot size or minimum lot width. The minimum lot size is not consistent with any zoning category under the 2020 Zoning Ordinance; however, the R2 Zone has the smallest lot size requirement of any zone in the city and is closer to achieving conformity than the UDC’s GI Zone.

		<u>Property Specs</u>	<u>GI Zone (UDC)</u>	<u>I2 Zone (2020 Zoning Ordinance)</u>	<u>R2 Zone (2020 Zoning Ordinance)</u>
Minimum Lot Size	Lot	0.14 Acres (~6,098 SF)	1 Acre	5 Acres	8,500 SF
Minimum Lot Width	Lot	75'	100'	150'	50'
Use		N/A	N/A	N/A	N/A

In 2018, the city also commissioned the Gold Nugget Trail Master Plan and Implementation Strategy for a proposed bike and pedestrian path that is proposed to travel along the route of the defunct rail line to the east of the property. A residential zoning category would be most conducive to development on the subject lot given the location and relative feasibility for a residential use to utilize the trail, as an industrial use would have limited use of any such trail.

iii) There is a community need for and benefit from the proposed rezoning; or

The underlying benefit to the community for a rezoning to R2 is directly related to any future use of the property as a single-family home instead of an industrial site. Being that the property is undersized and is impractical for usage as an industrial site, it would be an inherent benefit to zone the property the same as the surrounding properties on the eastern side of the rail spur.

iv) The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or

The property has access to water and sewage services. All other public facilities are supplied by the City of Villa Rica. The road capacity on Sugar Hill Street is not currently conducive to

industrial traffic and is a “dead end” street. The street is also an unpaved street and is utilized by three different properties, which all currently have residential uses on them, or are vacant. No industrial property currently utilizes Sugar Hill Street and the street does not meet the Development Code requirements as currently constructed.

v) The proposed zoning is compatible with the zoning and uses of property nearby; or

The R2 Zoning district is compatible with the zoning to the east of the defunct rail line spur. Properties to the west of the rail spur are situated in an industrial area and are not compatible with the R2 Zoning. The properties on the corner of Sugar Hill Street and N. Dogwood Street are both single-family residential homes. There are two additional properties on Sugar Hill Street that lie on the west side of the rail spur that are zoned industrial, with one being vacant and the other being residential.

vi) The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and

The GI Zone would not be suitable for any new industrial development on the lot, as the lot size is substantially less than all other developed or undeveloped lots within the GI Zone. The development of the lot for an industrial use would not be a logical extension of the growth center, as the other properties on this block are residential in nature, and are proposed to continue with residential R-2 Zoning. The block north of Sugar Hill Street is zoned I1 under the new zoning ordinance, however that block features an industrial building and one single-family home that can foreseeably be incorporated into any redevelopment of the adjacent industrial site. Sugar Hill Street and the rail spur act as a buffer between residential properties and industrial properties.

vii) Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

The property has full access to all services offered by the City of Villa Rica in addition to Carroll County fire protection. Fullerville Ballpark is less than a quarter mile from the subject property.

viii) Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and

Sugar Hill Street is an unpaved dead-end street. Any large-scale development would be required to fulfill the requirements set forth in the Villa Rica Development Code, which would include public right-of-way improvements. As currently constructed, the roadway could continue to function volume and capacity-wise should a residential structure be constructed on the property. This roadway is not conducive or safe for truck traffic.

ix) Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.

No known streams or rivers flow through this area. No potential environmental impacts have been identified.

Staff Comments:

In keeping with the goals and objectives of the Comprehensive Plan, and in kind with established planning principles and “good practice”, the Future Land Use Map Plan acknowledges the entirety of the area east of the rail spur as “Traditional Neighborhood” Character Area. As indicated in the Comprehensive Plan, this area is intended to “preserve established neighborhoods and create quality infill development that respects the prevailing single-family character and traditional building materials and site design.” The location of the lot is directly within an established neighborhood that is suitable for infill development. In addition, the I-2 Zone’s setbacks do not permit for any size building to be permitted in the 75’ x 75’ lot, which would zone the property into inutility.

Setback	I2 Zone Requirement
Front Yard	35’ (local street)
Side Yard	50’
Rear Yard	75’

This character area also encourages smaller lots and pedestrian-oriented site design complemented by a compact road network. Infill development/redevelopment should be compatible with the scale, setback, and style of existing adjacent homes. Industrial land classifications are not in-kind with the goals and objectives classified within the Traditional Neighborhood Character Area.

Primary future land uses within the character area include:

- Moderate density residential uses including detached single-family dwellings, two-family dwellings, and multi-family dwellings where similar land uses are located.
- Civic benefit uses such as community centers, libraries, places of worship and schools.
- Parks, greenways, trails.

Recommendation:

DENIAL OF APPEAL

Public Notifications:

As required by *Article 2, Section 2.01* in the Code of the City of Villa Rica, the public has been notified in *Times-Georgian* on **August 18th, 2020**; a sign has been posted on the subject property; and all abutting property owners have received notification via certified mail.

Public Response:

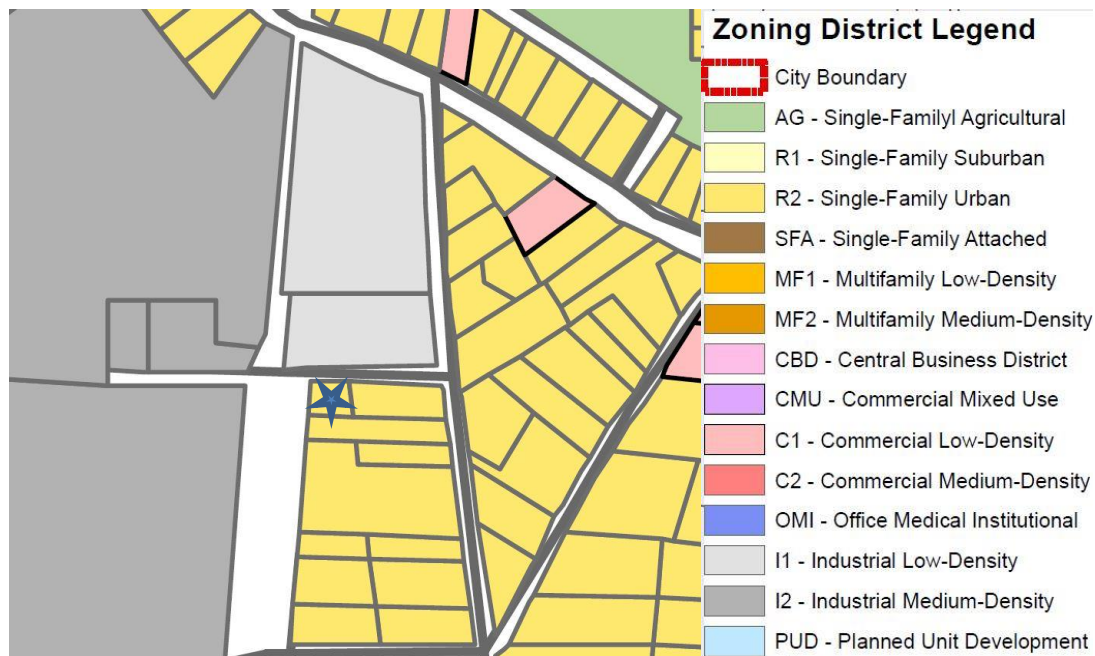
In response to the public notifications, no member of the public has voiced support or opposition to the zoning appeal or rezoning effort concerning this property.

Ronald Johnson, Planning & Zoning Specialist
Department of Community Development

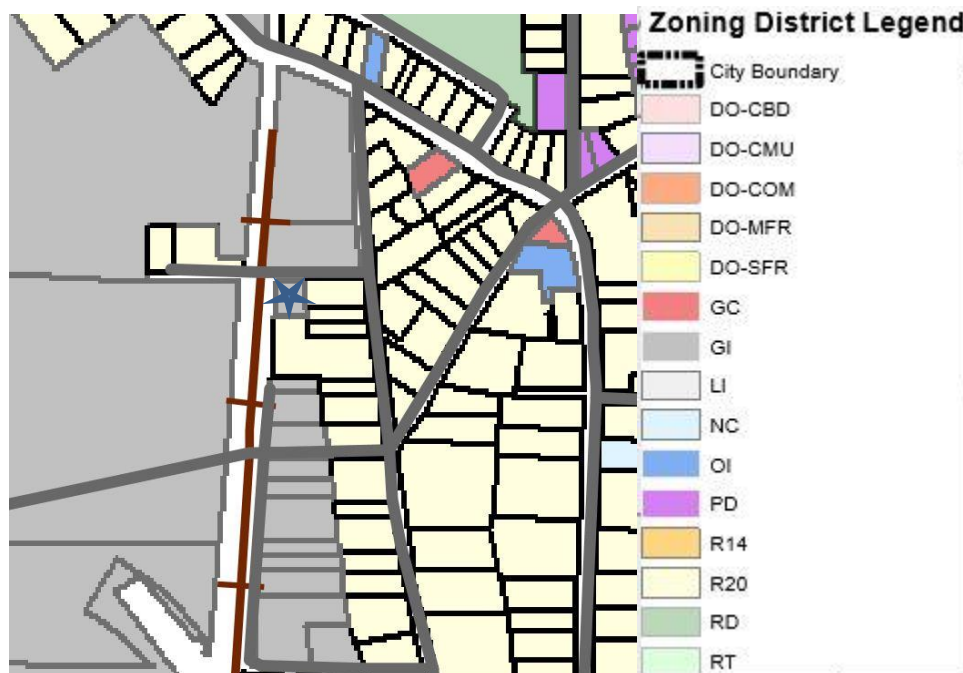
Attachments:

1. Zoning Appeal Evaluation Form
2. Letter from Applicant, dated January 31, 2020
3. Tax Assessor Qpublic Map and Property Record
4. 2020 Zoning Map
5. UDC Zoning Map
6. Future Land Use Map

2020 Zoning Map:



UDC Zoning Map:



Future Land Use Map:



CHARACTER AREAS

-  CONSERVATION / OPEN SPACE
-  TRADITIONAL NEIGHBORHOOD
-  SUBURBAN NEIGHBORHOOD
-  URBAN VILLAGE
-  SUBURBAN VILLAGE
-  COMMUNITY CROSSROADS
-  I-20 GATEWAY
-  COMMERCIAL CORRIDOR

ACTIVITY CENTERS

-  DOWNTOWN
-  INDUSTRIAL
-  COMMERCIAL
-  MEDICAL
-  PROPOSED GREENWAY TRAIL
-  PROPOSED ROAD PROJECTS
-  URBAN GROWTH AREA
-  CITY BOUNDARY





CITY OF VILLA RICA

City Council Packet

SUBJECT: Zoning Appeals: 1309 W. Bankhead Hwy

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: The property owner or his/her representative is appealing the decision by the City to change the zoning classification on the property from GC – General Commercial to AG – Single-Family Agricultural.

BACKGROUND: The zoning classification for the subject property was changed from GC – General Commercial to AG – Single-Family Agricultural upon adoption of the Villa Rica Zoning Map on August 11, 2020. The property was identified in the zoning audit as having a zoning classification on the property that was inconsistent with its current or historical use. The property owner/representative was notified of the intent to rezone and filed a formal objection. The property owner/representative was contacted by the City with a formal Zoning Appeals Form, which was filed with the City in a timely manner. The Appeal did not qualify for an Administrative Adjustment due to the following reasons:

- The zoning at the time of appeal was inconsistent with the recommended zoning in the Villa Rica Comprehensive Plan.
- The property is and has been historically occupied as a single-family residence, is not being taxed as a commercial use, and has no permits, licenses, or applications pending with the City for a commercial use.
- The property owner did not meet the Vested Rights criteria under the Unified Development Code.
- Zoning the property to a commercial classification would have resulted in a legally nonconforming use.
- The subject property does not meet the minimum lot size requirements (2.5ac) under C2 zoning.

The Zoning Appeal was heard by the Planning & Zoning Commission on September 1, 2020. The recommendation of the Planning & Zoning Commission was to Deny the Zoning Appeal.

STAFF RECOMMENDATION: Staff recommendation is to deny the Zoning Appeal and allow the property to remain in the AG – Single-Family Agricultural zoning district.

IMPACT: Zoning the property to AG will allow for the continued legally zoned use and enjoyment of the property as a single-family residence.

MOTION:

Motion to deny the Zoning Appeal for 1309 W. Bankhead Highway, and maintain the current AG zoning classification.

February 15, 2020

City of Villa Rica, Georgia

Attn: Department of Community Development

571 W. Bankhead Hwy.

Villa Rica, Ga 30180

Dear Sir,

The purpose of this letter is to inform you of my election to contest the zoning change of 1309 W. Hwy 78 Villa Rica, Ga 30180 (Parcel ID #: V020070503). First, I want to thank you for the time you spend reading and reviewing my lengthy letter. I did try to condense the contents of it for the benefit of the reader, but I felt I needed to give you some background information on my story, as it pertains to the zoning issue. My name is Jana Sims, I am 51 yrs old, married, and a nurse per occupation. My spouse and I reside with me at 1309, which originally belonged to my grandparents. When they passed, I moved back to Villa Rica from Canton around 2001. I grew up in the house next door at 1401 where my 81 year old mother continues to live. Through the years it has worked out well, especially after my father passed in 2002, and as my mother ages, I am just next door when she needs me.

So, part of my reason for continuing to live here is based on my attachment/sentimental feelings for this home, land and area, plus being here for my mother. My mother and I both care very much about the character of this neighborhood, and if/when/who our properties ^{would be} sold to. For example, a few months ago I received ^{five} calls from different people wanting to buy this property. It's not for sale, and I don't even know how these people obtained my cell phone number. Anyway, I didn't want any of the ideas/plans that were going to be used on my property, so I said no. I was surprised by two of the offers, as they were close to what I would expect for commercial property, but I still said no. Just like my parents did back when the First Baptist Church wanted to build on our property, my parents who are long time members would rather have a beautiful church sitting on that hill than other offers that were made over the years & would have been more lucrative, but money was not the most important aspect. Another reason I declined the offers I received is because ^{I care about my area.} There is also discussion of the church expanding onto our properties for the frontage, as more visible from the highway. Of course like I said, if ^{we} ever sold our properties it wouldn't be just to ^{anyone} for any use.

The church has structures right behind my mom's house, as well as mine. So expansion will continue. With concern for my property being rezoned to AG from commercial (even though you say it won't be turned into farmland, there's several issues as to why that won't work) according to the diagram of the house, the one behind it, how it's connected by a permanent privacy fence, large Oak trees shading both sides of house, septic tank on left side of house, church sewage line to the right of the house, other trees in the back yard with shade, not enough land (only 1.31 acres) for a buffer & my front yard is just that. Anyway I realize what you are trying to accomplish, but my property is in the city limits, is on a commercial corridor (church is right behind it) regardless of what it's currently being used for. How it's being used could change overnight, then it would need to be changed back to commercial property because that's only gain. I realize there are certain "things" headed in this area for development, & maybe some of those fine people I received calls from wanted to try & buy the place close to commercial prices ~~then~~ ^{or try to buy it for less when rezoned} then it get changed back to commercial & sold for more money. Smiting others instead of next my family

Now, money isn't my first priority, but these homes & land are part of mine & my sisters inheritance & it's been commercial for years. So, if even sold there was hope that a certain amount of money could be obtained ~~from~~ ^{from} it.

Joan McCloud sold a smaller sized lot than mine to the church & received 250,000. Now ~~we~~ ^{we} might not get that exact amount, but the loss could be 100,000(*) that could help out in so many ways in the future, you know we are good people & hardworking caring & kind, but a lot of times people like us don't catch "the breaks" as others do (it always seems to work out for many of them with money). Please consider all that I have said & please keep my property & my mom's as is. "Commercial."

Things like this can affect ^{deserving} people as us so much. I just don't want to be disappointed, because of the change & how it can negatively affect our lives, hopes & dreams.

Thank you,
Jane Sims



Zoning Challenge and Appeal Form

(for approved applications)

Property Information

Carroll **1309** **W. Highway 78**

County House No. Street Name

V02 0070503 **1.31**

Parcel ID Number Total Acreage

Current Zoning: **GC – General Commercial**

Proposed Zoning: **AG – Single-Family Agricultural**

Challenger Information

☐ Owner ☐ Owner-Representative ☐ Affiliated Organization _____

Last Name First Name MI

Mailing Address (if different from property address)

Email Daytime Phone Number

Note: Use the form ONLY for challenges related to the Zoning Resolution.

Select one: ☐ Initial Challenge ☐ Appeal to a previously denied challenge
(denied challenge must be attached)

_____ Indicate the total number of pages submitted, including attachments
(attachments may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

Note to challengers: An official decision to the challenge will be made available no earlier than seventy-five (75) days after the Zoning Challenge process begins. For more information of the Zoning Challenge process contact the Community Development Department at (770) 459-7000.

How is the appellant an aggrieved person?

Written statements received in lieu of a formal Zoning Appeal Form

(attach additional sheets as required)

ADMINISTRATIVE USE ONLY

Zoning Challenge and Appeal Received: **Written statements received in lieu of Zoning Appeal Form**

Authorized Representative(s):

Signature and Date

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney



Zoning Appeal Evaluation Form

for Zoning Appeals received within sixty (60) days of
the adoption of the Villa Rica Zoning Ordinance

Property Information

Carroll **1309 W. Hwy 78**

County House No. Street Name

V02 0070503 **1.31**

Parcel ID Number Total Acreage

Current Zoning: **G-C – General Commercial**

Proposed Zoning: **AG – Single Family Agricultural**

Challenger Information

Sims **Jana**

Last Name First Name MI

1309 W. Hwy 78, Villa Rica, GA 30180

Mailing Address (if different from property address)

Email Daytime Phone Number

REVIEW CRITERIA – CHECK ALL THAT APPLY

- ☒ The existing zoning was in error at the time of adoption; or
- ☒ The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or
- ☒ There is a community need for and benefit from the proposed rezoning; or
- ☒ The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or
- ☒ The proposed zoning is compatible with the zoning and uses of property nearby; or
- ☒ The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and
- ☒ Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

- 100
- No
- ☐ Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and
 - ☐ Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.
 - ☐ The property meets the following criteria for a Vested Right under the current UDC:
 - a) The initial application for development approval was made by the applicant and approved by the City;
 - b) The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;
 - c) The applicant has proceeded in good faith; and
 - d) No approvals or permits have lapsed or been revoked; or
 - e) Other Vested Rights - Entitlement to development approval on the basis of other vested rights under any applicable state law

Property is being taxed as residential

NOTES

Comprehensive Plan identifies the property as Suburban Village
 Recommended zoning includes R20, R14, RT, RD, PD, NC, or
 Property is used and occupied as a single-family residential use.
 Single-family residences are not permitted in GC
 This is a zoning correction
 No applications or concept plans for commercial development
 Churches are not permitted in C2 ^{on file} ~~on file~~ they are allowed in AG.

ADMINISTRATIVE USE ONLY

☐ Administrative Approval

Date

☒ Remanded to the Planning Commission/City Council

7/10/20

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____



Planning & Zoning

Community Development Department

ZA-05-20

Council Ward: 3

Planning Board Member: Tom Flowers

City Council Member: Leslie McPherson

Public Hearing Dates

Planning Commission: September 1, 2020

City Council: October 13, 2020

Request: Appeal to a city-initiated rezoning in order to keep the General Commercial (GC) zoning category currently in effect as an alternative to the proposed Single-Family Agricultural (AG) zone in the new Zoning Ordinance.



Applicant: Jana Sims
1309 Hwy 78
Villa Rica, GA 30180

Parcel Number(s): V02 0070503
Acres: 1.31
Current Land Use: Single Family
Future Development: Suburban Village

Location: 1309 Highway 78, in Land Lot 165 of the 6th District in Carroll County.

Project Description:

The applicant is requesting an appeal to the proposed rezoning of the property from General Commercial (GC) to Single-Family Agricultural (AG).

Surrounding Properties:

Current Zoning		Land Use
North	Single-Family Agricultural (AG)	House of Worship
East	Single-Family Agricultural (AG) / Single-Family Attached (SFA)	Single-Family Home / Vacant Agricultural Use
South	Single-Family Agricultural (AG)	Vacant Land
West	Single-Family Agricultural (AG)	Single-Family Home

Vested Rights Review Standards:

The Unified Development Code states in Section 2.03L.1, “The vested rights determination procedure is intended to determine whether an applicant has acquired a protected status that requires the City to permit a development to proceed contrary to existing or amended land use regulations. The procedure establishes a limit on the duration of all development approvals to avoid unproductive investment in public facility system capacities”. The application shall be denied unless the applicant demonstrates compliance with the following criteria:

I. The initial application for development approval was made by the applicant and approved by the City;

No development application has been submitted to the city based on our records.

II. The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;

The city has encouraged the applicant to submit any and all relevant data to establish a vested right. No data has been submitted.

III. The applicant has proceeded in good faith; and

The applicant has submitted an appeal and cover letter to support their position. The applicant has acted in good faith.

IV. No approvals or permits have lapsed or been revoked; or

The property does not have any approvals or permits that have lapsed as no applications have been submitted.

V. Other Vested Rights – Entitlement to development approval on the basis of other vested rights under any applicable state law.

No entitlements have presented themselves.

Furthermore, additional criteria for a UDC Text Amendment and Zoning Map Amendment are as follows:

i) The existing zoning was in error at the time of adoption; or

The existing General Commercial zoning was an error at the time of adoption. The residential use on the property does not conform to the General Commercial Zone’s authorized uses nor the bulk regulations established in the UDC. The property is currently taxed as “R3 – Residential” and has had a residential use and character since the property was constructed in 1959. The zoning of the property as General Commercial was conforming at the time of

adoption, however with the GC zone being replaced by the C2 zone in the new zoning ordinance, a pre-existing legal nonconformity would be created. Neither the GC or C2 zoning is not supported by the Comprehensive Plan as governed by the Suburban Village Character Area.

ii) The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or

The change to residential is consistent with the Comprehensive Plan. The Comprehensive Plan designates this area as “Suburban Village”, which recommends the zoning as Neighborhood Commercial (NC), Office Institutional (OI), Single-Family (R20), Multi-Family (R-14), Residential Townhome (RT), Rural Development (RD), and Planned Development (PD). The General Commercial Zone, which is being replaced by the Commercial Medium-Density (C2) Zone in the new 2020 Zoning Ordinance, is not a recommended zoning category for this Character Area.

The subject property would be considered a nonconforming property should it be zoned to C2, as the minimum lot size would not meet the requirements of that zone. In addition, it would constitute spot zoning as there’s no C2 zoned property nearby (the property is entirely surrounded by single-family zoned properties). The AG zone, which is proposed for this property, would be a natural progression from the AG-zoned areas directly to the north, south east and west of the property. The surrounding area is mostly residential in nature, with a large house of worship on 40-acres adjacent to the property.

The intent and purposes of the Suburban Village Character Area in the Comprehensive Plan can be met by the property via rezoning to AG. The minimum lot size, width and current use all conform to the standards set forth in the AG zone. The property previously was conforming to the bulk regulations for the GC zone; however, the use was not conforming. This correction will create conforming conditions across the board for this property. The creation of a nonconforming lot and use under the C2 Zone would not be in-kind with the goals and objectives of the Comprehensive Plan.

	<u>Property Specs</u>	<u>GC Zone (UDC)</u>	<u>C2 Zone</u>	<u>AG Zone (w/o Sewer)</u>
Minimum Lot Size	1.31 Acres (57,063.6 sq. ft.)	20,000 sq. ft.	2.5 Acres	40,000 sq. ft.
Minimum Lot Width	200'+ (estimate)	100'	150'	150'
Use	N/A	N/A	N/A	N/A

iii) There is a community need for and benefit from the proposed rezoning; or

The benefit to rezoning the area AG is to correct a zoning error and nonconformity that was created by the previous rezoning to GC.

iv) The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or

The change is consistent with the surrounding uses, zoning and character on both sides of W. Bankhead Highway in this section. However, it should be noted that West Bankhead

Highway between Van Wert Road and Highway 61 has a host of commercial and residential uses. The stretch of the roadway between Van Wert Road and Waterford Drive are far more residential in nature than commercial.

v) The proposed zoning is compatible with the zoning and uses of property nearby; or

The proposed AG zoning is compatible with the surrounding properties as all properties surrounding this property are zoned AG, and all are either vacant, a single-family home or a house of worship --all of which are permitted in the AG zone and meets the intents and purposes of the AG zoning category.

vi) The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and

The C2 zoning category, which supersedes the GC Zone, would not be suitable for the development of uses permitted in that zone, as the minimum lot size is nonconforming and no sewer service is available. In addition, it is not a logical extension of an existing urban area or growth center, as all surrounding properties are single-family and zoned accordingly.

vii) Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

The property has access to water, but not sewer service. All other services are provided by the City of Villa Rica in addition to Carroll County fire protection and schools.

viii) Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and

This section of W. Bankhead Highway is classified as a major collector road by standards set forth by the city's Comprehensive Plan. The authorized uses under the C2 zone can contribute to increased traffic. Single-family homes are one of the smallest trip generators individually than almost any other land use. A change to the C2 zone authorizes retail, restaurants, office and other businesses that require frequent trips. The capacity and safety of the network may be negatively affected by an increased number of trips. The street currently does not have curbs, a shoulder, street lighting or sidewalks.

ix) Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.

According to the Georgia Department of Environmental Protection, the state has not identified any streams in this area. The environmental impact of a commercial use under the C2 zone is higher than a residential single-family home.

Staff Comments:

The property in question consists of a residential single-family use that was not conforming in the previous GC zoning under the UDC, however the property did meet the dimensional requirements of the ordinance (minimum lot width and minimum lot size). The successor zone to the GC zoning district in the 2020 zoning ordinance is the C2 zone. Rezoning the property to C2 would make the property nonconforming to the use, minimum lot size and minimum lot width –administratively

creating further nonconforming conditions on the property. Because the use would be nonconforming under C2, if the property was to become vacant for more than 12 months, the residential use would be revoked.

As there are existing single-family uses and zoning nearby, and the property meets the bulk regulations and use requirements of the AG zone, the AG zone would be most appropriate in fulfilling the intents and purposes of the Suburban Village Character area in the Comprehensive Plan.

Recommendation:

DENIAL OF APPEAL

Public Notifications:

As required by *Article 2, Section 2.01* in the Code of the City of Villa Rica, the public has been notified in *Times-Georgian* on **August 18th, 2020**; a sign has been posted on the subject property; and all abutting property owners have received notification via certified mail.

Public Response:

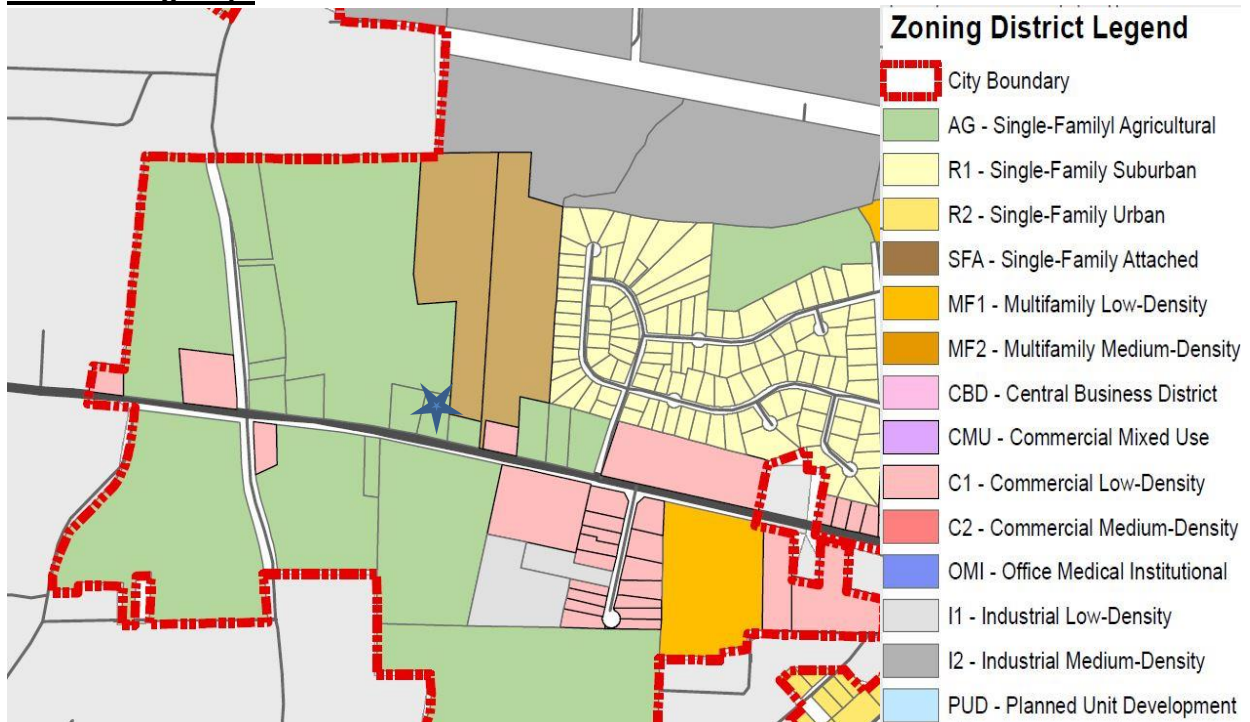
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Ronald Johnson, Planning & Zoning Specialist
Department of Community Development

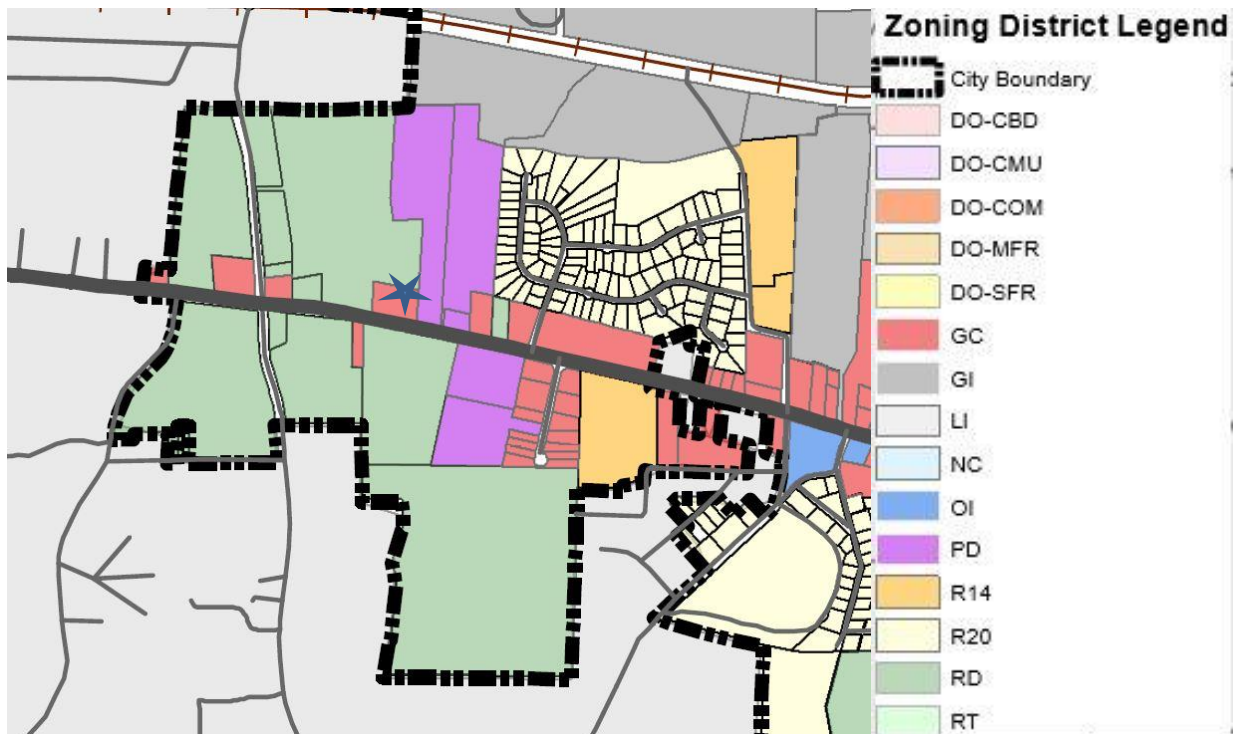
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6. UDC Zoning Map
7. Future Land Use Map

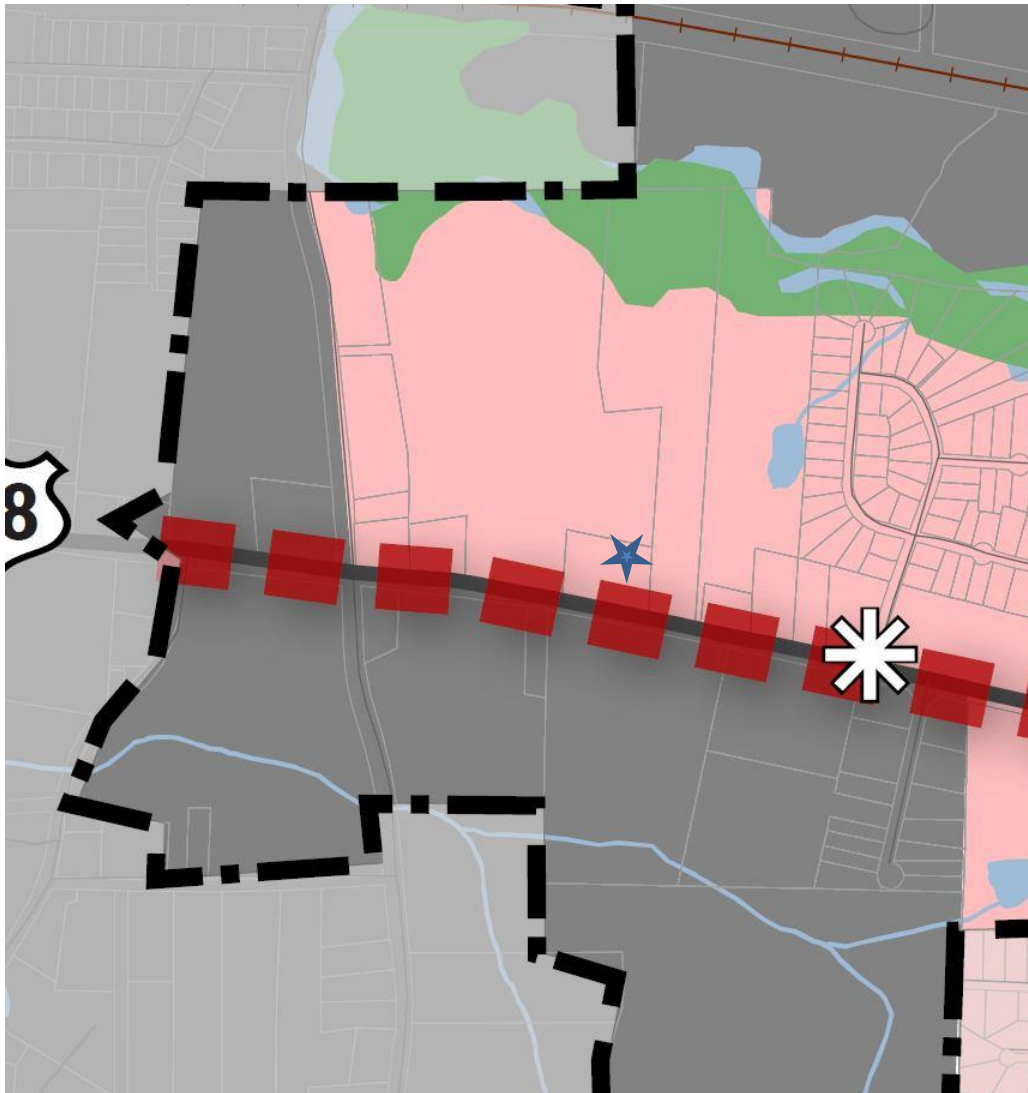
2020 Zoning Map:



UDC Zoning Map:



Future Land Use Map:



CHARACTER AREAS

-  CONSERVATION / OPEN SPACE
-  TRADITIONAL NEIGHBORHOOD
-  SUBURBAN NEIGHBORHOOD
-  URBAN VILLAGE
-  SUBURBAN VILLAGE
-  COMMUNITY CROSSROADS
-  I-20 GATEWAY
-  COMMERCIAL CORRIDOR

ACTIVITY CENTERS

-  DOWNTOWN
-  INDUSTRIAL
-  COMMERCIAL
-  MEDICAL
-  PROPOSED GREENWAY TRAIL
-  PROPOSED ROAD PROJECTS
-  URBAN GROWTH AREA
-  CITY BOUNDARY





CITY OF VILLA RICA

City Council Packet

SUBJECT: Zoning Appeals: 1401 W. Bankhead Hwy

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: The property owner or his/her representative is appealing the decision by the City to change the zoning classification on the property from GC – General Commercial to AG – Single-Family Agricultural.

BACKGROUND: The zoning classification for the subject property was changed from GC – General Commercial to AG – Single-Family Agricultural upon adoption of the Villa Rica Zoning Map on August 11, 2020. The property was identified in the zoning audit as having a zoning classification on the property that was inconsistent with its current or historical use. The property owner/representative was notified of the intent to rezone and filed a formal objection. The property owner/representative was contacted by the City with a formal Zoning Appeals Form, which was filed with the City in a timely manner. The Appeal did not qualify for an Administrative Adjustment due to the following reasons:

- The zoning at the time of appeal was inconsistent with the recommended zoning in the Villa Rica Comprehensive Plan.
- The property is and has been historically occupied as a single-family residence, is not being taxed as a commercial use, and has no permits, licenses, or applications pending with the City for a commercial use.
- The property owner did not meet the Vested Rights criteria under the Unified Development Code.
- Zoning the property to a commercial classification would have resulted in a legally nonconforming use.
- The subject property does not meet the minimum lot size requirements (2.5ac) under C2 zoning.

The Zoning Appeal was heard by the Planning & Zoning Commission on September 1, 2020. The recommendation of the Planning & Zoning Commission was to Deny the Zoning Appeal.

STAFF RECOMMENDATION: Staff recommendation is to deny the Zoning Appeal and allow the property to remain in the AG – Single-Family Agricultural zoning district.

IMPACT: Zoning the property to AG will allow for the continued legally zoned use and enjoyment of the property as a single-family residence.

MOTION:

Motion to deny the Zoning Appeal for 1401 W. Bankhead Highway, and maintain the current AG zoning classification.



Zoning Challenge and Appeal Form (for approved applications)

Property Information

Carroll **1401** **W. Highway 78**

County House No. Street Name

V02 0070487 **1.42**

Parcel ID Number Total Acreage

Current Zoning: **GC – General Commercial**

Proposed Zoning: **AG – Single-Family Agricultural**

Challenger Information

☒ Owner ☐ Owner-Representative ☐ Affiliated Organization _____

Last Name First Name MI
Mitchell Barbara W.

Mailing Address (if different from property address)

b mitchell 1939 @ 1 cloud. com

Email

Daytime Phone Number

770-344-9652
Cell

Note: Use the form ONLY for challenges related to the Zoning Resolution.

Select one: ☒ Initial Challenge ☐ Appeal to a previously denied challenge
(denied challenge must be attached)

1 Indicate the total number of pages submitted, including attachments
(attachments may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

Over

Note to challengers: An official decision to the challenge will be made available no earlier than seventy-five (75) days after the Zoning Challenge process begins. For more information of the Zoning Challenge process contact the Community Development Department at (770) 459-7000.

How is the appellant an aggrieved person?

Object to proposed ZONING "AG."

This proposed zoning will
negatively impact the value
of my property currently zoned GC.
This is the only property I own.

(attach additional sheets as required)

ADMINISTRATIVE USE ONLY

Zoning Challenge and Appeal Received: _____

Authorized Representative(s):

Signature and Date

Tom Barber, City Manager _____

Bobby Elliott, Community Development Director _____

Chris Montesinos, CD Deputy Director _____

Ron Johnson, CD Planning & Zoning Specialist _____

C. David Mecklin, City Attorney _____



Zoning Appeal Evaluation Form

for Zoning Appeals received within sixty (60) days of
the adoption of the Villa Rica Zoning Ordinance

Property Information

Carroll **1401 W. Hwy 78**

County House No. Street Name

V02 0070487 **1.42**

Parcel ID Number Total Acreage

Current Zoning: **G-C – General Commercial**

Proposed Zoning: **AG – Single Family Agricultural**

Challenger Information

Mitchell **Barbara**

Last Name First Name MI

1401 W. Hwy 78, Villa Rica, GA 30180

Mailing Address (if different from property address)

Email Daytime Phone Number

REVIEW CRITERIA – CHECK ALL THAT APPLY

- ☒ The existing zoning was in error at the time of adoption; or
- ☒ The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or
- ☒ There is a community need for and benefit from the proposed rezoning; or
- ☒ The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or
- ☒ The proposed zoning is compatible with the zoning and uses of property nearby; or
- ☒ The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and
- ☒ Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

No

NO

No

- ☐ Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and
- ☐ Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.
- ☐ The property meets the following criteria for a Vested Right under the current UDC:
 - a) The initial application for development approval was made by the applicant and approved by the City;
 - b) The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;
 - c) The applicant has proceeded in good faith; and
 - d) No approvals or permits have lapsed or been revoked; or
 - e) Other Vested Rights - Entitlement to development approval on the basis of other vested rights under any applicable state law

NOTES

Comprehensive Plan identifies the property as Suburban Village
Recommended zoning includes R20, R14, RT, RD, PD, NC, OF
Property is an occupied single-family residence - not permitted in GC
Property is taxed as residential. Etc.
Adjacent uses are residential and institutional - none
are permissible under CZ (GC) - the zoning does not
devalue the property and corrects a zoning non-conformity.

ADMINISTRATIVE USE ONLY

☐ Administrative Approval

Date

☒ Remanded to the Planning Commission/City Council

7/24/20

Tom Barber, City Manager

Bobby Elliott, Community Development Director

Chris Montesinos, CD Deputy Director

Ron Johnson, CD Planning & Zoning Specialist

C. David Mecklin, City Attorney



Planning & Zoning

Community Development Department

ZA-04-20

Council Ward: 3

Planning Board Member: Tom Flowers

City Council Member: Leslie McPherson

Public Hearing Dates

Planning Commission: September 1, 2020

City Council: October 13, 2020

Request: Appeal to a city-initiated rezoning in order to keep the General Commercial (GC) zoning category currently in effect as an alternative to the proposed Single-Family Agricultural (AG) zone in the new Zoning Ordinance.



Applicant: Mitchell Barbara Ann W (Life Estate)
1401 Hwy 78
Villa Rica, GA 30180

Parcel Number(s): V02 0070487
Acres: 1.42
Current Land Use: Single Family
Future Development: Suburban Village

Location: 1401 Highway 78, in Land Lot 165 of the 6th District in Carroll County.

Project Description:

The applicant is requesting an appeal to the proposed rezoning of the property from General Commercial (GC) to Single-Family Agricultural (AG).

Surrounding Properties:

Current Zoning		Land Use
North	Single-Family Agricultural (AG)	House of Worship
East	Single-Family Agricultural (AG)	Single-Family Home
South	Single-Family Agricultural (AG)	Vacant Land
West	Single-Family Agricultural (AG)	House of Worship

Vested Rights Review Standards:

The Unified Development Code states in Section 2.03L.1, "The vested rights determination procedure is intended to determine whether an applicant has acquired a protected status that requires the City to permit a development to proceed contrary to existing or amended land use regulations. The procedure establishes a limit on the duration of all development approvals to avoid unproductive investment in public facility system capacities". The application shall be denied unless the applicant demonstrates compliance with the following criteria:

I. The initial application for development approval was made by the applicant and approved by the City;

No development application has been submitted to the city based on our records.

II. The City had an opportunity to require the applicant to submit relevant information, including, but not limited to, adequate public facilities data;

The city has encouraged the applicant to submit any and all relevant data to establish a vested right. No data has been submitted.

III. The applicant has proceeded in good faith; and

The applicant has submitted an appeal and cover letter to support their position. The applicant has acted in good faith.

IV. No approvals or permits have lapsed or been revoked; or

The property does not have any approvals or permits that have lapsed as no applications have been submitted.

V. Other Vested Rights – Entitlement to development approval on the basis of other vested rights under any applicable state law.

No entitlements have presented themselves.

Furthermore, additional criteria for a UDC Text Amendment and Zoning Map Amendment are as follows:

i) The existing zoning was in error at the time of adoption; or

The existing General Commercial zoning was an error at the time of adoption. The residential use on the property does not conform to the General Commercial Zone's authorized uses nor the bulk regulations established in the UDC. The property is currently taxed as "R3 – Residential" and has had a residential use and character since the property was constructed in 1964. The zoning of the property as General Commercial was conforming at the time of

adoption, however with the GC zone being replaced by the C2 zone in the new zoning ordinance, a pre-existing legal nonconformity would be created. Neither the GC or C2 zoning is not supported by the Comprehensive Plan as governed by the Suburban Village Character Area.

ii) The proposed change is consistent with, and in furtherance of, the implementation of the goals and objectives of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this Code and other city regulations and guidelines; or

The change to residential is consistent with the Comprehensive Plan. The Comprehensive Plan designates this area as “Suburban Village”, which recommends the zoning as Neighborhood Commercial (NC), Office Institutional (OI), Single-Family (R20), Multi-Family (R-14), Residential Townhome (RT), Rural Development (RD), and Planned Development (PD). The General Commercial Zone, which is being replaced by the Commercial Medium-Density (C2) Zone in the new 2020 Zoning Ordinance, is not a recommended zoning category for this Character Area.

The subject property would be considered a nonconforming property should it be zoned to C2, as the minimum lot size would not meet the requirements of that zone. In addition, it would constitute spot zoning as there’s no C2 zoned property nearby (the property is entirely surrounded by single-family zoned properties). The AG zone, which is proposed for this property, would be a natural progression from the AG-zoned areas directly to the north, south east and west of the property. The surrounding area is mostly residential in nature, with a large house of worship on 40-acres adjacent to the property.

The intent and purposes of the Suburban Village Character Area in the Comprehensive Plan can be met by the property via rezoning to AG. The minimum lot size, width and current use all conform to the standards set forth in the AG zone. The property previously was conforming to the bulk regulations for the GC zone; however, the use was not conforming. This correction will create conforming conditions across the board for this property. The creation of a nonconforming lot and use under the C2 Zone would not be in-kind with the goals and objectives of the Comprehensive Plan.

	<u>Property Specs</u>	<u>GC Zone (UDC)</u>	<u>C2 Zone</u>	<u>AG Zone (w/o Sewer)</u>
Minimum Lot Size	1.42 Acres (61,855.2 sq. ft.)	20,000 sq. ft.	2.5 Acres	40,000 sq. ft.
Minimum Lot Width	200'+ (estimate)	100'	150'	150'
Use	N/A	N/A	N/A	N/A

iii) There is a community need for and benefit from the proposed rezoning; or

The benefit to rezoning the area AG is to correct a zoning error and nonconformity that was created by the previous rezoning to GC.

iv) The proposed change is consistent with the character of the area in which the proposed rezoning is proposed; or

The change is consistent with the surrounding uses, zoning and character on both sides of W. Bankhead Highway in this section. However, it should be noted that West Bankhead

Highway between Van Wert Road and Highway 61 has a host of commercial and residential uses. The stretch of the roadway between Van Wert Road and Waterford Drive are far more residential in nature than commercial.

v) The proposed zoning is compatible with the zoning and uses of property nearby; or

The proposed AG zoning is compatible with the surrounding properties as all properties surrounding this property are zoned AG, and all are either vacant, a single-family home or a house of worship --all of which are permitted in the AG zone and meets the intents and purposes of the AG zoning category.

vi) The existing zoning is suitable for the development of the uses authorized under the existing zoning classification, will be conducive to proper community planning, and is a logical extension of an existing urban area or growth center; and

The C2 zoning category, which supersedes the GC Zone, would not be suitable for the development of uses permitted in that zone, as the minimum lot size is nonconforming and no sewer service is available. In addition, it is not a logical extension of an existing urban area or growth center, as all surrounding properties are single-family and zoned accordingly.

vii) Public and community facilities, which may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, and solid waste collection and disposal, are available and adequate to serve uses authorized under the proposed zoning; and

The property has access to water, but not sewer service. All other services are provided by the City of Villa Rica in addition to Carroll County fire protection and schools.

viii) Authorized uses will not adversely affect the capacity or safety of the street network in the vicinity of the property; and

This section of W. Bankhead Highway is classified as a major collector road by standards set forth by the city's Comprehensive Plan. The authorized uses under the C2 zone can contribute to increased traffic. Single-family homes are one of the smallest trip generators individually than almost any other land use. A change to the C2 zone authorizes retail, restaurants, office and other businesses that require frequent trips. The capacity and safety of the network may be negatively affected by an increased number of trips. The street currently does not have curbs, a shoulder, street lighting or sidewalks.

ix) Potential environmental impacts (e.g., excessive storm water runoff, water pollution, air pollution, noise pollution, excessive lighting, or other environmental harms) of authorized uses will be mitigated.

According to the Georgia Department of Environmental Protection, the state has not identified any streams in this area. The environmental impact of a commercial use under the C2 zone is higher than a residential single-family home.

Staff Comments:

The property in question consists of a residential single-family use that was not conforming in the previous GC zoning under the UDC, however the property did meet the dimensional requirements of the ordinance (minimum lot width and minimum lot size). The successor zone to the GC zoning district in the 2020 zoning ordinance is the C2 zone. Rezoning the property to C2 would make the property nonconforming to the use, minimum lot size and minimum lot width –administratively

creating further nonconforming conditions on the property. Because the use would be nonconforming under C2, if the property was to become vacant for more than 12 months, the residential use would be revoked.

As there are existing single-family uses and zoning nearby, and the property meets the bulk regulations and use requirements of the AG zone, the AG zone would be most appropriate in fulfilling the intents and purposes of the Suburban Village Character area in the Comprehensive Plan.

Recommendation:

DENIAL OF APPEAL

Public Notifications:

As required by *Article 2, Section 2.01* in the Code of the City of Villa Rica, the public has been notified in *Times-Georgian* on **August 18th, 2020**; a sign has been posted on the subject property; and all abutting property owners have received notification via certified mail.

Public Response:

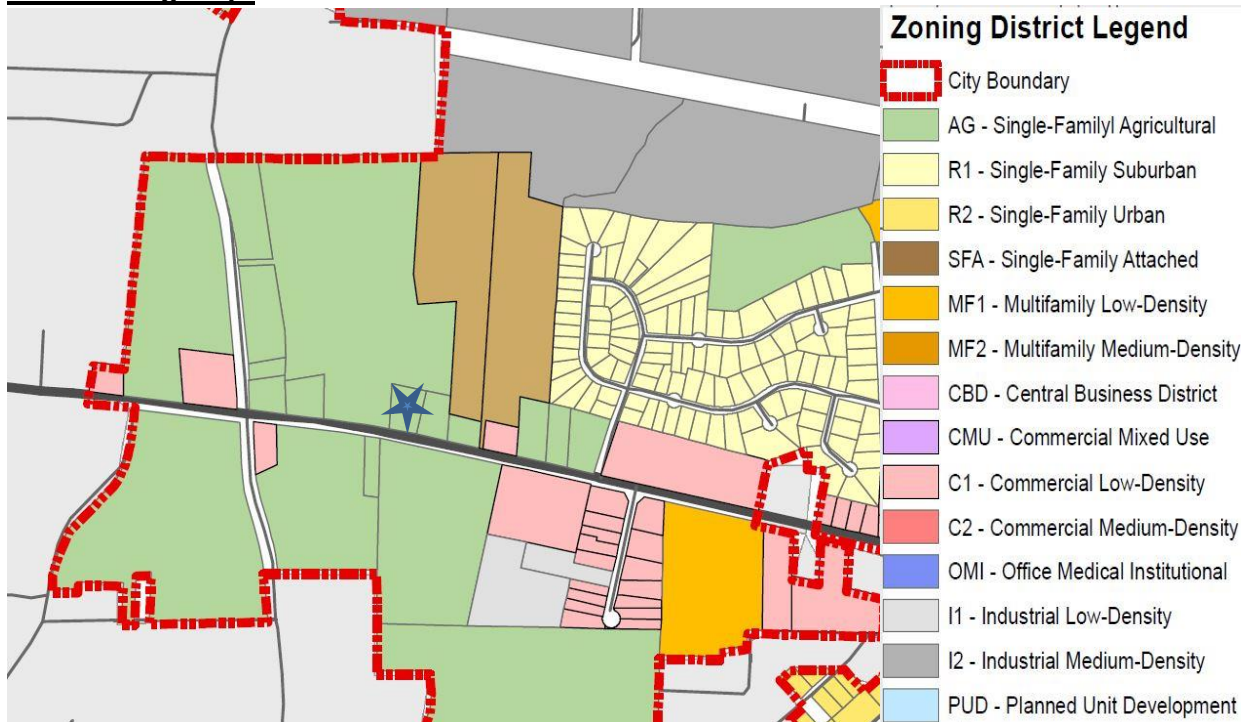
In response to the public notifications, no member of the public has voiced support or opposition to the zoning appeal or rezoning effort concerning this property.

Ronald Johnson, Planning & Zoning Specialist
Department of Community Development

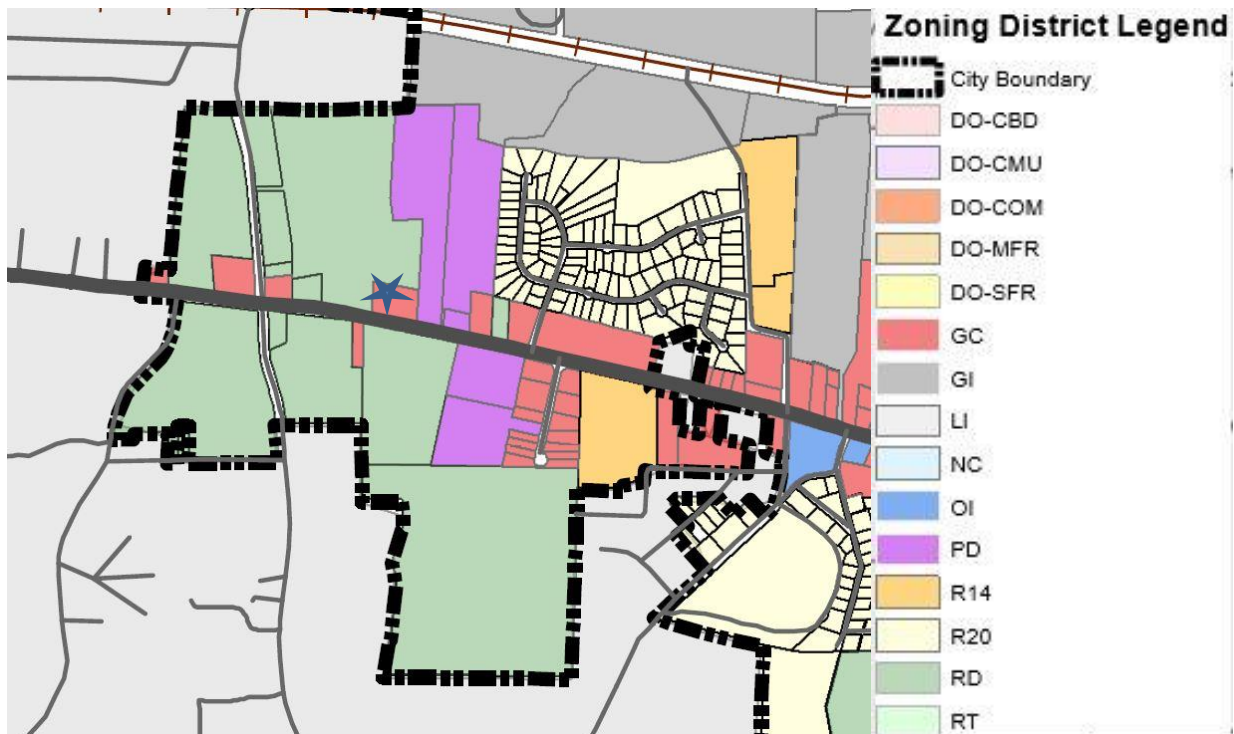
Attachments:

1. Zoning Appeal Evaluation Form
2. Zoning Challenge and Appeal Form
3. Letter from Applicant, dated February 20, 2020
4. Tax Assessor Qpublic Map and Property Record
5. 2020 Zoning Map
6. UDC Zoning Map
7. Future Land Use Map

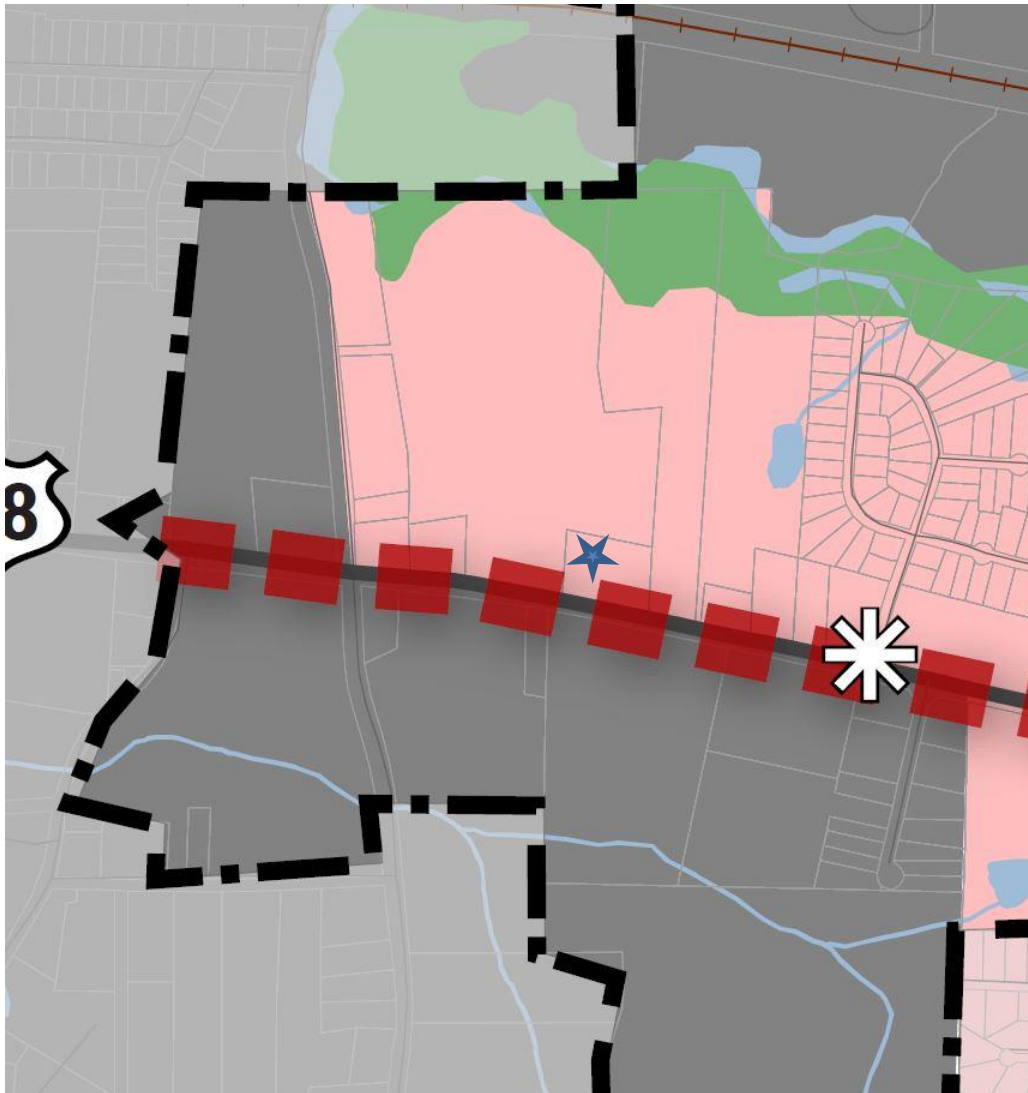
2020 Zoning Map:



UDC Zoning Map:



Future Land Use Map:



CHARACTER AREAS

-  CONSERVATION / OPEN SPACE
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-  SUBURBAN NEIGHBORHOOD
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-  CITY BOUNDARY





CITY OF VILLA RICA

City Council Packet

SUBJECT: Villa Rica Downtown Entertainment District

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: To establish a Downtown Entertainment District for the purpose of being able to purchase alcoholic beverages and consume them outside within the designated boundaries of the District.

BACKGROUND: This project was actually initiated back in January of 2020 – pre-Coronavirus. It is especially relevant now with the encouragement of social distancing. Councilmember Leslie McPherson and I met with a number of downtown business owners back in February, and out of our meeting came the concept of a Downtown Entertainment District – not dissimilar to existing districts in other Georgia cities. At the behest of the downtown business owners, I drafted an ordinance fashioned after a similar ordinance in Woodstock, GA, and identified the district boundaries based on participating businesses, as included in the Downtown Entertainment District Ordinance. This draft ordinance was further enhanced through the input of the Villa Rica Police Department. This is an amendment to the City's Alcohol Ordinance (not zoning). Enforcement of the ordinance will rely on self-policing by participating business owners.

In this era of social distancing, limited indoor capacity, and months of hardship endured by our downtown eating and drinking establishments, the creation of Downtown Entertainment District will likely help enhance public health and safety by allowing the dispersement of crowds into designated areas that may enhance protection from the spread of Covid-19, influenza, and other seasonal maladies.

STAFF RECOMMENDATION: Staff recommendation is to approve the downtown Entertainment District.

IMPACT: Downtown business owners on the north side of the railroad tracks will benefit from having a designated open container district that will enhance social distancing and allow patrons to consume alcoholic beverages purchased within the District. This supports the health directive of social distancing, and enhances the participating business service capacity.

MOTION:

Motion to approve the establishment of a downtown Entertainment District, with boundaries and regulations as articulated in Article 3 of the Villa Rica Alcohol Ordinance.

ARTICLE III. - LOCATION AND ZONING

Sec. 4-69. - Zoning restriction.

- 1) No retail license shall be granted under this chapter unless the premises to be licensed are, at the time the application is approved by the mayor and council, located under the planning and zoning ordinance of the city in a nonresidential zoning district subject to the specific limitation of the respective districts.
- 2) No license shall be granted under this chapter for a brewery unless the premises to be licensed are, at the time the application is approved by the city manager, located under the planning and zoning ordinance of the city in an LI zoning district subject to the specific limitations of the respective districts.
- 3) No license shall be granted under this chapter for a nanobrewery or a microbrewery unless the premises to be licensed are, at the time the application is approved by the city manager, located under the planning and zoning ordinance of the city in a CBD, CMU, C1, or C2 zoning district subject to the specific limitations of the respective districts.

Sec. 4-70. - Proximity restrictions.

- 1) No premises shall be licensed under this chapter whose location is within the following distances:
 - a) For the sale of any wine or malt beverage, within three-hundred (300) feet of any church building, school building, school grounds, or college campus.
 - b) For the sale of any distilled spirits, within three-hundred (300) feet of any church building and within six-hundred (600) feet of any school building, educational building, school grounds, or college campus.
 - c) For the sale of any distilled spirits, wine, malt beverage, within three-hundred (300) feet of an alcoholic treatment center owned and operated by the state or any county or municipal government therein.
 - d) For the sale of any alcoholic beverage for consumption on the premises, within 300 feet of any housing authority property. For this subsection, the term "housing authority property" means any property containing three-hundred (300) housing units or fewer owned or operated by a housing authority created by O.C.G.A. § 8-3-1.
- 2) No consumption-on-the-premises license shall be issued for any place of business which is located within two-hundred (200) feet of a private single-family or two-family dwelling, the measurement for which shall be by direct measurement from property line, using the closest property lines of the parcels of land involved (the term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit); provided, however, that this prohibition shall not apply with respect to such a private dwelling which is located in a zoning district in which alcoholic beverage outlets are authorized or in the downtown overlay district.
- 3) For the purpose of this section, distances shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- a) From the front door of the structure from which alcoholic beverages are sold or proposed to be sold;
 - b) In a straight line to the nearest public sidewalk, street, road, or highway;
 - c) Along such public sidewalk, walkway, street, road, or highway by the nearest route; and
 - d) To the front door of the school, church, or alcoholic treatment building or to the nearest portion of the school grounds, college campus, or housing authority property, whichever is applicable under this chapter.
- 4) No license shall be revoked and no application for a license or renewal shall be denied by any reason of the method of measurement set out in this subsection, if such license or license application or renewal application is for premises for which a license was granted prior to the enactment of this chapter in reliance on other methods of measurement or prior to establishment of churches, schools or alcohol treatment center.

State Law reference— Sales of alcoholic beverages near churches, schools or college campus, O.C.G.A. § 3-3-21.

Sec. 4-71. - Sale, service in public places.

It shall be unlawful for any person to sell or serve any alcoholic beverage in a street, alley, or parking lot commonly used by the public or in any other public place or on public property except as otherwise provided herein.

Sec. 4-72. - Open containers provisions.

The purpose of this section is intended to set forth certain exceptions and provisions applicable only to licensees whose establishments:

The purpose of this section is intended to set forth certain exceptions and provisions applicable only to licensees whose establishments:

- 1) Are located within an approved Entertainment District.
- 2) Possess a license to sell alcoholic beverages for consumption on the premises.

Except as specifically set forth in this section, all such licensees will remain subject to all other provisions of the city's alcoholic beverages ordinance.

Sec. 4.73. – Establishment of Downtown Entertainment District Boundaries.

- 1) *District.* The Downtown Entertainment District is limited to the outdoor public right-of-way of Temple Street, between North Carroll Road and North Avenue, and along Main Street from North Candler Avenue to North Avenue.

- 2) *Extension.* The Downtown Entertainment District may be extended to include The Mill Amphitheater in association with city-sanctioned concerts, fairs, and events, with the express approval of the Mayor and City Council.



Sec. 4-74. - Outside consumption of alcoholic beverages permitted.

- 1) *Container.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in their possession on the public streets and sidewalks, plazas, in parks and/or any other public place within an Entertainment District any open alcoholic beverage container, which exceeds sixteen (16) fluid ounces in size. Any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises which is located within an approved Entertainment District is authorized to dispense alcoholic beverages in a clear plastic cup for removal from the premises.

- 2) *Promotional containers for Entertainment District Consumption.* The City may authorize a refillable and reusable promotional cup bearing the names and/or logos of participating alcohol vending establishments located within the Entertainment District boundaries.
- 3) *Drinking from can, bottle, or glass prohibited.* Except as specifically set forth in Sections 4-72 through 4-75 herein with respect to a clear plastic cup, it shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, glass, cup, or container, on the public streets, sidewalks, plazas, rights-of-way, and public or private parking lots within the city.
- 4) *Purchase from licensed premises within an approved Entertainment District allowed off premises.* Alcoholic beverages purchased in accordance with this chapter may be consumed in the approved Entertainment District except as prohibited in this section. Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed establishment authorized to sell alcoholic beverages for consumption on the premises within the approved Entertainment District. Licensed establishments shall only be permitted to serve from their approved premises as approved on their alcohol license and shall not serve from temporary locations upon the premises unless specifically allowed by issuance of a special event permit in accordance with Subsections 8.03(4) and 11.17 of the Villa Rica Zoning Ordinance.
- 5) *Consumption limited to certain areas in Entertainment District.* No alcoholic beverage purchased pursuant to this provision may be consumed outside the boundary of the approved Entertainment District unless specifically allowed by issuance of a special event permit in accordance with Subsections 8.03(4) and 11.17 of the Villa Rica Zoning Ordinance.
- 6) *Regulated hours.* After 2:00AM, mirroring state law, consumption on premises licensees shall discontinue the sale of alcoholic beverages within clear plastic cups and shall not allow alcoholic beverages to be removed from their licensed premises.

Sec. 4-75. - Signage.

Any licensed establishment that allows patrons to leave an establishment with an alcoholic beverage as regulated herein shall have an 11-inch by eight and one-half inch sign posted at the door for public view whereas a patron exiting the establishment can read the following:

"All patrons leaving this establishment with an alcoholic beverage do hereby take full responsibility to only consume an alcoholic beverage served in a clear plastic cup not to exceed 16 ounces in size and obtained by an establishment licensed to sell alcoholic beverages in the Entertainment District boundary outlined on the map below. Any individual that leaves the permitted area with an alcoholic beverage in an open container is in violation of city code and may be subject to a citation and/or fine."

Sec. 4-76. - Regulation of security at alcoholic beverage establishments and special events.

The owner and/or manager of any alcoholic beverage establishment and the organizer and/or manager of any special event, who chooses to employ security at his or her establishment or special event during hours of operation, shall meet and adhere to all of the following requirements:

- 1) If the owner and/or manager of any alcoholic beverage establishment and the organizer and/or manager of any special event contracts with a private security business, any such private security business must be properly registered with and licensed by both the State of Georgia and the city and meet and adhere to all standards and requirements set forth in the Georgia Private Detective and Security Agencies Act, O.C.G.A. § 43-38-1, et seq.
- 2) If the owner and/or manager of any alcoholic beverage establishment and the organizer and/or manager of any special event provides in-house security, said owner, organizer, and/or manager assumes full liability and responsibility for the security personnel, as they will be considered employees of the establishment or special event.
- 3) Any alcohol establishment within the entertainment district that employs armed private security guard must do so in accordance with O.C.G.A § 43-38-10 or hire a security agency licensed in accordance with O.C.G.A. § 43-38-1, et seq.
- 4) All security personnel working at an alcoholic beverage establishment or special event shall be uniform in appearance with one another and in a way that distinguishes them from other non-security personnel or employees. Uniforms must meet the following requirements:
- 5) The uniform must clearly identify the employee as either "In-House Security" preceded by the establishment's or special event's name, or if outside security personnel are used, "Security" preceded by the private security company name.
- 6) The uniforms cannot resemble those worn by city police officers.
- 7) No black in color security shirts are permitted. Shirts must be either green, yellow, or white with either white or black lettering.
- 8) For special events involving City-owned property or City-controlled Rights-of-Way, including public road closures, a special event permit may be issued only after an adequate plan for crowd and traffic control, as well as security has been presented, and, when deemed necessary, employment of off-duty, uniformed Villa Rica Police Officer(s) shall be utilized. If Villa Rica Police Officer(s) are not available, as confirmed in writing by the Villa Rica Police Chief, then the Villa Rica Police Department will select an officer from a different agency, or a non-agency P.O.S.T. certified officer that has already been approved by the city.

Sec. 4-77. - No abrogation of other laws.

The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, driving with an open container or under the influence of alcohol, or similar laws.

Sec. 4-78. - Ancillary tastings permitted.

The holder of a retail sales license, other than for distilled spirits, shall be eligible for an ancillary tasting license to provide samples of malt beverages and/or wine offered for sale to customers under the conditions set forth in this ordinance. No location where distilled spirits are sold shall be eligible for an ancillary tasting license.

Tastings shall be limited to malt beverages and wines only. Tastings shall be on limited occasions either when a customer requests a sample of a malt beverage or wine offered for sale within the premises or in conjunction with sampling designed to promote malt beverage or wine appreciation and education.

Tastings of malt beverages or wine shall be limited to one consecutive two-hour period in any one day. Tastings shall not exceed two ounces for wine, or five ounces for malt beverages.

Sec. 4-79. - Serving limitations.

Malt beverages and/or wine products used in conjunction with tasting shall be opened and poured by the licensee or a person who has obtained a manager's permit as specified in Chapter 4, Article II of the Villa Rica City Code.

No open containers of malt beverages and/or wine shall be removed from the licensed premises. Tastings are permitted on the licensed premises only as specified in Chapter 4, Article IV of the Villa Rica City Code.

Sec. 4-80. - Additional fee required.

The annual fee for an ancillary tasting license shall be published in the adopted fee schedule for the City of Villa Rica.

Secs. 4-81—4-100. - Reserved.



CITY OF VILLA RICA

City Council Packet

SUBJECT: Selection of Consultant for the Villa Rica Livable Centers Initiative Study

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: Atlanta Regional Commission LCI Grant/Professional Services

PURPOSE: This is a presentation of the LCI proposal evaluations and recommendation for the selection of a consultant for the Villa Rica Livable Centers Initiative Study.

BACKGROUND: The City of Villa Rica was awarded a Livable Center Initiative Study Grant in the amount of \$96,000 by the Atlanta Regional Commission – the grant comes with a local match of \$24,000, for a total project cost of \$120,000 – this is \$20,000 greater than the initial application.

ARC had extra money, and offered to increase our grant amount to attract a better pool of interested consultants for the project. The scoring criteria for the proposals is broken down as follows:

- 15 Quality and thoroughness of the proposal. Consultant understanding and approach to the required tasks and needs
- 30 Related experience of the firm/team with similar projects comparable in type, size, and complexity. Overall experience in planning, real estate market analysis and forecasts, development proformas, and community engagement.
- 25 Demonstration of understanding and commitment to execute creative, contextual, and engaging approaches to community engagement. Ability to reach under-represented citizens and their successful inclusion into the engagement process.
- 15 Demonstrated ability to perform high quality work, to control costs, and to meet project schedules.
- 15 Pricing approach related to the tasks listed

Of extra importance during the current Coronavirus Pandemic is the firm's ability and creativity as it relates to public engagement – reaching greater numbers of participants while ensuring appropriate safety protocols.

The study will identify opportunities and projects that focus on “place making” in Villa Rica, pedestrian and multimodal infrastructure enhancements, wayfinding signage and city branding, creating new and improved community gathering places, connecting the city's destination locations,

improving access and transportation facilities, and attracting new economic development opportunities while preserving and promoting Villa Rica's unique heritage.

STAFF RECOMMENDATION: Staff will be making a recommendation for the selection of the most qualified candidate at the City Council meeting. As of the drafting of this Council agenda coversheet, the deadline for proposals is Monday, September 28, 2020. That will be followed by bidder interviews on October 7, 2020, with a final recommendation to the City Council on October 13, 2020.

IMPACT: The LCI program will have significant impacts on the City of Villa Rica in terms of aesthetics, accessibility, heritage, and sense of place for decades to come.

MOTION:

Motion to approve the recommendation of the City LCI Evaluation Committee (Barber, Elliott, Montesinos, and Johnson) to select the highest ranking consultant, based on the scoring criteria included in the LCI Study RFP, and other relevant factors.



Request for Proposals

Livable Centers Initiative Study



Released on: August 7, 2020
Due on: September 28, 2020

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Villa Rica LCI Study Area



- Subject to Amendment

Introduction

Purpose of Proposal

The City of Villa Rica is accepting proposals from qualified firms for the purpose of completing the Livable Centers Initiative (LCI) study.

The work to be accomplished is in support of the following Atlanta Regional Commission (ARC) sub-element 902 CAS – Livable Centers Initiative Investment Policy Studies (LCI). All the necessary services provided in this will support the study of LCI related programs and projects within the Villa Rica LCI Study Area (Attachment A).

Schedule

The Request for Proposals (RFP) is scheduled as follows:

MILESTONE	DEADLINE DATE
RFP advertised	Friday, August 7, 2020
Non-mandatory pre-bid meeting	Wednesday, September 9, 2020 at 10:00 AM at City Hall 571 W. Bankhead Hwy, Villa Rica, GA 30180
Deadline for question submission	Friday, September 18, 2020 by 5:00 PM EST
Addenda to RFP issued (if any)	Wednesday, September 22, 2020 by 5:00 PM EST
Deadline for submitting proposals	Monday, September 28, 2020 by 5:00 PM EST
Bidder interviews (optional)	Wednesday, October 7 through Friday, October 9, 2020 as scheduled by City
Presentation of Bidders to City Council	Tuesday, October 13, 2020 at 6:00 PM EST
Notification of selection	Friday, October 16, 2020
Draft contract due to ARC	Thursday, October 30, 2020
Executed contract and Project begins	Monday, November 9, 2020

Communication with Staff

From the issue date of the solicitation document and until a Contractor is selected and the selection is made public, Contractors are not allowed to communicate for any reason with any City staff or elected official with the exception of the City's LCI Project Manager, or as provided on existing contracts. For violation of this provision, the City may reject any proposal of the offending offeror.

Questions and Answers

All questions concerning this RFP must be submitted via email or writing to the City's LCI Project Manager:

Chris Montesinos, Deputy Director of Community Development

571 W. Bankhead Hwy., Villa Rica, GA 30180 cmontesinos@villarica.org

Questions and clarification requests must be received by Friday, September 18, 2020, 5:00 PM EST. Answers and clarifications issued by the City will be in the form of an addendum to the proposal instructions and will be issued to all known potential offerors and placed on the City's website not later than Wednesday, September 22, 2020, 5:00 PM EST. It is the proposer's responsibility to ensure that they have all applicable addenda prior to submittal. This may be accomplished via contact with the Purchasing Agent via email or by visiting the City's website prior to submittal.

Scope of Work

Type of Services and Objectives

The LCI Program seeks to increase the use of alternatives to driving alone by developing transportation projects and other programs to improve accessibility, expand mixed-uses, and support further development in the study area. Evaluation of the existing structure and development of likely scenarios should produce recommendations for future investment that support ARC's Livable Centers Initiative Program.

The City of Villa Rica has been awarded LCI funds for consulting services to establish LCI related programs and projects within the Villa Rica LCI Study Area (Attachment A). The selected firm shall provide the tasks outlined in the RFP. Submitting firms must demonstrate they have knowledge of LCI implementation projects.

The City of Villa Rica and the Atlanta Regional Commission (ARC) anticipate the following outcomes from the study to be:

- Inform stakeholders about Villa Rica's vision and goals for the LCI area.
- Develop a framework of policies and programs to help accomplish the vision.
- Develop guidance for development type, scale, and character in the study area.
- Identify key redevelopment sites and strategies to activate them.
- List and prioritize implementation strategies, specifically for public investment in the LCI area.
- Review and update zoning regulations in study area with an emphasis placed on regulations that support LCI priority areas.

Work Tasks

The City of Villa Rica will prepare an LCI study for its greater downtown area. This plan would be a master plan for their downtown area and historic Fullerville Mill District to develop development standards and to improve accessibility, expand mixed-uses, and support further development in the study area.

The City of Villa Rica and ARC anticipate the following outcomes from the study to be:

- Inform stakeholders about the City of Villa Rica's vision and goals for the LCI area.
- Develop a framework of policies and programs to help accomplish the vision.
- Develop guidance for development type, scale, and character in the study area.
- Identify key redevelopment sites and strategies to activate them.
- List and prioritize implementation strategies, specifically for public investment in the LCI area.
- Review and update zoning regulations in study area with an emphasis placed on regulations that support LCI priority areas.

The work to be accomplished under this contract is divided into the following tasks:

Task 1 – Existing Conditions Assessment

The selected consultant will conduct a thorough review and assessment of the study area’s current land use patterns, transportation patterns, environmental constraints, and urban design elements, including pedestrian, bicycle, and transit access; access to jobs, retail and neighborhood services; diversity of dwelling types; and design for healthy living and social interaction. This analysis should be coordinated with other completed studies, programs, developments, and organizations. The focus of the assessment will include, at a minimum, the following:

- Review current and historical plans’ proposals for future land uses, development patterns (specifically the “Village Concept”), zoning, transportation, and public facilities and compare to conditions “on the ground” today. Plans to review include Villa Rica’s Zoning Ordinance and Comprehensive Plans, Villa Rica Renaissance Strategic Vision and Plan (2018), Villa Rica Urban Redevelopment Plan (2012), Community Revitalization Plan: Villa Rica (2019), Gold Nugget Trail Master Plan & Implementation Strategy (2018), the recent Avemore Development Conceptual Master Plan (2019), Villa Rica Transportation Master Plan (2020);
- Conduct assessment of existing conditions and issues (strengths, weaknesses, opportunities and challenges) related to land use, transportation network (railroads, roads, paths, and sidewalks), environmental constraints, housing, and infrastructure (sewer, water, and stormwater) within the study area.
- Conduct additional technical analysis which may include but are not limited to a walkability assessment, cart use and path use assessment, zoning code / land development code restrictions, and/ or a jobs/housing balance assessment;

Task 2 – Housing and Market Analysis

Prepare a market and housing analysis that supports the plan recommendations and ensures the proposed plan is realistic.

The focus of the assessment will include, at a minimum, the following:

- Summarize current market conditions based on market-related data such as recent sales data, co-star, etc.
 - Include current vacancy rates, rental rates, and sale rates per square foot of retail, office, and residential uses in the LCI area and districts near to the LCI area.
 - Level of market opportunity and depth by land use and product type (i.e. how much and what type of retail is needed, overbuilt, etc.);
- Identify realistic future rates in the LCI area. Provide summary conclusions based on local data compared to Atlanta region generally and specifically the Western Crescent of the Atlanta region.
 - Demand and Feasibility Assessment for housing, retail, office, and other uses within the LCI area and assessment of competing uses in districts near to the LCI area;
 - Provide detailed housing type demands (attached, detached, size, amenities, etc.)
 - Provide retail insight (sizes, trends, over/under supply effect on rental rates, etc.)

- Provide detailed office insight (age of existing stock, etc.)
- Identify location requirements for types of successful developments, (i.e. distance from interstate for big box retail, income and population requirements for successful ‘main street’ style retail, education levels and population demands for Class ‘A’ office or corporate headquarters, etc.)
- Identify where new development/ redevelopment can be located to most effectively catalyze further reinvestment.
- Prepare proformas for a select few catalytic redevelopment sites, and prepare a presentation or marketing materials highlighting the market potential based on these catalytic projects
- Develop customer profiles based on realistic population trends and forecasts in Villa Rica. The customer profile information should include detailed demographics, lifestyle segmentation data, actual customer spending habits, or other pertinent information;
- Identify best practice(s) and/or development incentives or financing mechanisms for including public and private sources of funding for workforce housing and economic development (i.e. financial incentives, special districts, recruitment strategies, local government policies, etc.)
- Identify new housing development types that can be introduced within the LCI study area that align with the guidance for development type, scale, and character in the study area;
- Develop recommendations that identify best practice(s) and/or development incentives or financing mechanisms for housing and economic development.
- Identify new housing development types that can be introduced within the LCI study area that align with the guidance for development type, scale, and character in the study area;
- Develop recommendations that identify best practice(s) and/or development incentives or financing mechanisms for housing and economic development.

Task 3 – Public Input

Villa Rica understands that the success of a plan depends on the community’s involvement in its creation, and as such expects a robust community engagement program. The goal of this task is to develop a local planning outreach process that promotes the involvement of all stakeholders in the study area, with efforts and accommodations made to include low to moderate income, minority, ethnically diverse and elderly or disabled citizens.

Villa Rica will identify all stakeholders and facilitate their involvement in the study process. These tasks will be documented through meeting notices, meeting summaries and other written communications. A ledger of public comments and the plan’s responses to those comments should be addressed in the study reports and recorded in Appendices. The public involvement process shall, at a minimum, include the following components:

Project Management Team

Villa Rica shall establish a Project Management Team that includes a representative from the City, the consultant, and ARC. This team shall meet or hold a conference call monthly to discuss the study progress and advise on public involvement and other planning process issues.

Core Team

A core team shall be established that includes the members of the Project Management Team along with representatives from key stakeholder groups in the study area. The Core Team must include representatives from relevant state, regional and local government departments responsible for land use planning, transportation and housing (including applicable housing authorities/agencies).

The key responsibility of the Core Team is to review and comment on materials to be presented at public meetings, help advertise meetings, provide strategic direction to the plan, and distribute information to the larger community.

General Public Engagement

During the study process, the City shall make a reasonable effort to involve all stakeholders in the study area, including property owners, residents, business owners and employers/employees. The public involvement process should include a variety of methods, times, and techniques to reach the broadest range of stakeholders possible (i.e. workshops, charrettes, forums, surveys, open houses, etc.). **The Project Management Team, including the representative from ARC, and the Core Team must be notified of all meetings taking place in a timely manner.**

A minimum of **three (3) public engagement activities**, in a format determined by the project team, following topics/milestones should be covered by the public meetings (at a minimum):

- Provide overview of study process, the goals of the study, key dates, and opportunities for public input;
- Solicit opinions on goals and objectives of the study, stakeholder needs, strengths, weaknesses, opportunities and threats in the study area;
- Review preliminary findings, present draft plan and gather comments;
- Seek approval for final plan documents.

Final Plan Review and Transportation Coordination Meeting

A transportation project coordination meeting, and final plan review by ARC, is required to be conducted prior to finalizing the LCI plan recommendations. A single combined meeting can be held in lieu of two separate meetings if feasible. To ensure the transportation projects are feasible, the coordination meeting should include all affected organizations (such as GDOT, Carroll County, City Public Works, etc.) to discuss potential projects prior to the transportation improvement list being finalized.

Task 4 – Development Concept Plan

The selected consultant will prepare a detailed development concept plan, including goals, policies and action strategies based on the findings of Task 1, 2, and 3. At a minimum, the plan will assess the subject area's current land use patterns, environmental constraints, transportation patterns and urban design elements, including pedestrian, bicycle and cart access; access to jobs, retail and neighborhood services; diversity of dwelling types; and design for healthy living and social interaction. This analysis should be coordinated with other completed studies, programs, developments and organizations. At a minimum, this plan and study will contain the following components:

- 1) Summary of existing conditions and issues identified in Task 1. This includes land use, zoning, transportation, housing, environmental constraints, and infrastructure conditions.
- 2) Assessment of other relevant plans that have had an impact on the City's development and the plan update, also covered in Task 1.
- 3) Vision and goals for the LCI Study area that address the following:
 - a) Mix of land uses appropriate for future growth including new and/or revised land use regulations needed to complete the development program
 - b) Mixed-income housing, job/housing match and social issues such as access to healthy foods, placemaking, and aging in place
- 4) Recommended policies and programs to implement community vision.
- 5) Recommended revisions to the zoning ordinance and development of regulations to support the vision including street design standards.
- 6) Detailed implantation strategy and action plan to assist City officials in moving the plan forward.
- 7) Site-specific recommendations for 2-3 catalytic sites in the area that include a detailed market analysis, regulatory recommendations, and visualization of key concepts.
- 8) Transportation assessment and recommendations which include:
 - a) Incorporation of the Villa Rica Transportation Plan
 - b) Temporary and interim transportation improvements
 - c) Opportunities for green infrastructure within transportation recommendations Transportation demand reduction measures
 - d) Internal mobility improvements including traffic calming, pedestrian and bicycle circulation, cart circulation, and safety and security of all modes
 - e) Parking strategies including parking for carts.
 - f) Placemaking strategies including but not limited to public art, wayfinding, lighting, and streetscapes.
 - g) Continuity of local streets in study area and extension of the street grid
 - h) Conceptual renderings of the key transportation recommendations

Task 5 – Prepare Project Deliverables

The goal of this task is to compile the results of the overall work effort, the study process, relevant findings, and recommendations into a final study/plan document. The final study document shall include the following (not necessarily in this order) into an easy to read format:

Executive Summary

A brief introduction and summary of the Villa Rica LCI Study, including issues and opportunities, and general implementation strategies and priorities.

Assessment Existing Conditions from Task 1

- 1) A summary of the findings from Task 1

Summaries of the plan development process from Task 3

- 2) A description of the study process and methodology, data gathering techniques and findings, and general outcomes.
- 3) A description of the public participation process used to achieve a community-supported program of improvements.

Concept Plan and Study, including:

- 1) Maps, concept illustrations, and other graphic representations to support the plan including (but not limited to): the study area, existing land use, future land use, existing transportation facilities, and proposed transportation improvements.
- 2) Identify locations of Transportation recommendations.

Housing and Market Analysis from Task 2:

Include a summary of the Housing and Market analysis and economic development recommendations in the planning document and executive summary and provide the full report as an appendix.

Implementation Strategy:

- 1) Describe the organizational structure and processes that will be used to ensure the action plan items are implemented. Focus should be given to collaboration opportunities with other organizations and strategies to ensure continued support from local elected officials, citizens and businesses.
- 2) Recommendations from the Market and Housing Analysis.
- 3) A 100-day Action plan shall be developed to include no-cost or very low-cost actions and organizational steps needed to keep momentum going and the stakeholders involved and sharing responsibility for the plan's success. This action plan should include short term creative placemaking measures and temporary transportation installations that the City of Villa Rica can undertake to test out concepts in a lighter, cheaper, faster manner.
- 4) A description of the changes required within zoning ordinance, development regulations and/or other locally adopted policies to support the concept plan and street design standards, with revised language for adoption, and including a committed schedule for adopting such changes.
- 5) An evaluation process used to monitor plan implementation and update the action plan every five years (or more often if need), should be identified.

Five-year Implementation Plan (aka Schedule of Actions):

- 1) Using the "5 Year Implementation Plan" template provided by ARC, create a list of all actions and projects that are planned in the study area to implement the study goals, programs, and projects. Schedules should include estimated start date, completion date, cost estimate and

responsible party. This short-term implementation plan should include specific actions with start and end dates that implement the LCI plan, including, but not limited to:

- 2) A prioritized description of transportation improvement projects (local, state and federal) that will support the study area goals;
- 3) A prioritized description of housing strategies, particularly for affordable and mixed income housing developments, that support a job-housing match, aging in place, and efficient utilization of transportation facilities in the study area.
- 4) Description of economic development and placemaking strategies
- 5) A prioritized description of transportation improvement projects that are longer term in nature five-year implementation plan.

Appendix

- 1) The full market/fiscal feasibility report
- 2) Detailed transportation assessment
- 3) Revised Land Development regulations to implement the concept plan including street design standards
- 4) Documentation of every public comment and plan response

Format of Final Deliverables:

- 1) One (1) printed copy of the complete final report and appendices (8.5"x11"). Plans and graphics may be 11"x17" format
- 2) PDF file of Final Report and all appendices
- 3) The 5-Year Implementation Plan in Excel using the ARC template.
- 4) All electronic files in their original formats (e.g. MS Word, Excel, InDesign, etc.) with supporting graphics and GIS shape files.

Proposal Format

Packaging of Proposal

Clearly label the outside of the shipping package/ envelope as follows:

- Name of Firm/ Team submitting the proposal
- Name Primary Point of Contact for lead firm
- RFP Number RFP #01-2020CDD
- Due no later than September 28, 2020, 5:00 p.m. EST

Number of Proposal Copies

The Offeror shall submit one original (conspicuously marked “Original”), five (5) copies, and one CD or flash drive containing an electronic copy in a single PDF document of their written proposal

Submittal Requirements

Proposals must be submitted no later than Monday, **September 28, 2019 at 5:00 p.m. EST** to:

City of Villa Rica

Attn: Chris Montesinos

571 W. Bankhead Hwy

Villa Rica, GA 30180

All proposals must be received by the City by the due date; it is not sufficient to show that the submittal was mailed in time to be received before the scheduled RFP closing time.

Preparation of Proposal

Each proposal should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete presentation. Provide a written proposal that presents their qualifications and understanding of the work to be performed. Include all information requested, organized in tabbed sections clearly identified in a table of contents as described in the paragraphs that follow. Any other information thought to be relevant by not applicable to the enumerated categories, may be provided as a separate appendix to the proposal.

A. Agents and Address

Identify who will be the project manager and key staff assigned if awarded. Provide resumes summarizing the qualifications and experience of the individuals who will be conducting the study. Include specific information on the staff's experience with planning, market analysis, and community engagement.

Identify any sub-consultants and provide a summary of their scope of services. List the address, email address, and telephone number of the offices from which the services are to be provided.

B. Similar or Related Projects and References

For the consultant and any sub-consultants, describe at least three (3) similar or related projects successfully completed within the last five (5) years and include the name, address, telephone number, and an e-mail address for reference checks.

C. Project Approach

Provide a statement describing the Scope of Work as you understand it. Describe the approach, means, methods, and procedures to be used to gather data, analyze findings, perform community engagement tasks, and develop recommendations as requested. Include any information demonstrating understanding and insights related to the Projects Scope of Work.

D. Project Timeline

Provide a proposed schedule of tasks including key milestones for deliverables. It is expected that the work will commence as soon as possible after the contract is awarded; and that the project will be completed within the timeframe established by the Atlanta Regional Commission.

E. Cost of Services

Provide a proposed cost approach and fee itemized by each work task as outline in the Scope of Work that identifies standard hourly billing rate for each staff member anticipated to work on the Project; estimated reimbursable expenses; and a rate schedule for computing any extra work not specified in the contracted Scope of Work.

F. Additional Services (Optional)

Provide any other related and recommended products or services not specified in this RFP which may be considered essential or beneficial by the firm. These services should be priced separately from the "Cost of Services" above.

G. Required Forms

The completed required forms listed below shall be initialed, and signed as required. Sample forms are attached at the end of the document.

- (1) Certification of RFP and Acknowledgement of Addenda
- (2) Georgia Illegal Immigration Reform and Enforcement Act Form
- (3) Terminations Form

Forms and affidavits required by this subsection shall be considered an open public record once a public employer has entered into a contract for services; provided, however, that any information protected from public disclosure by federal law shall be redacted.

H. Draft Contract

In order to facilitate the condensed contract execution timeline requested by the ARC, we are requesting that all Offerors include a draft contract in their Proposal. The City will review of the standard contract language immediately upon selection of the winning Proposal. Your draft contract language will not be reviewed during the selection process nor be used for selecting the winning Proposal.

Selection Criteria

The selection will be based on the qualifications of the consultant team and the quality of the Proposal. However, City of Villa Rica reserves the right to call references provided in the submittal and to require phone or personal interviews with firms requiring additional evaluation. The following criteria will be used for the evaluation:

Weight	Item
15	Quality and thoroughness of the proposal. Consultant understanding and approach to the required tasks and needs
30	Related experience of the firm/team with similar projects comparable in type, size, and complexity. Overall experience in planning, real estate market analysis and forecasts, development proformas, and community engagement.
25	Demonstration of understanding and commitment to execute creative, contextual, and engaging approaches to community engagement. Ability to reach under-represented citizens and their successful inclusion into the engagement process.
15	Demonstrated ability to perform high quality work, to control costs, and to meet project schedules.
15	Pricing approach related to the tasks listed

Evaluation

The City of Villa Rica reserves the right, in its sole discretion, to reject or accept any submittal it considers to be nonresponsive. Should the City fail to reach agreement with any firm or teams initially selected, we reserve the right to commence negotiations with the next highest ranked firm or team. The City may select a firm without an interview or may choose to interview all or a limited number of applicants.

Terms and Conditions

- No person or business entity shall on the grounds of race, color, national origin, sex, age, or handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the City.
- The City reserves the right to reject any and all proposals, to waive any and all irregularities or informality in a proposal, and to accept or reject any item or combination of items, when to do so would be to the advantage of the City. It is also within the right of the City to reject proposals that do not contain all elements and information requested in the RFP.
- The City reserves the right to cancel this RFP at any time.
- Ownership of all data, materials, and documentation prepared for and submitted to the City in response to this request for proposal shall belong exclusively to the City and will be considered a record prepared and maintained or received in the course of operations of a public office or agency and subject to public inspection in accordance with the Georgia Open Records Act, Official Code of Georgia Annotated, Section 50-18-70, et. seq., unless otherwise provided by law.
- Proposals will not be accepted from any person, firm, or corporation who is in arrears in any debt or obligation to the City of Villa Rica or any other governmental entity.
- Compliance with Laws: In connections with the furnishing of supplies or performance of work under the contract, the Offeror agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, Georgia Security and Immigration Compliance Act, and all other applicable Federal and State laws, regulations, and executive orders to the extent that the same may be applicable and further agrees to insert the foregoing provision in all subcontractors awarded hereunder.
- Right to negotiation: The City reserves the right to negotiate with the selected Offeror the fee for the proposed scope of work and the exact terms and conditions of the contract.
- The logo of Villa Rica is protected and may not be used in submissions to the City. When using a logo, proposers should use their corporate logos only.
- Proposal Withdrawal: A submitted proposal may be withdrawn prior to the due date by a written request to the City LCI Project Manager. No proposals may be withdrawn for a period of sixty (60) days after the scheduled time to receive the proposal.
- Cost of Preparing Proposals: The cost for developing the proposal is the sole responsibility of the Offeror. The City will not provide reimbursement for such costs
- The City's procurement policy is available in the Finance Department for inspection.

Other Information

RFP Information Webpage

The City's website is www.villarica.org

RFP postings are available at [Business – View RFP Opportunities – Current Bids](#)

Financial Standing

The contractor selected must be able, if requested, to provide proof that they are in good financial standing. All records submitted by the Contractor may be subject to the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq. As such, the Contractor should be careful to not provide any proprietary information. In addition, the City may require contact information with the contractor's financial institution(s), along with the necessary consent for the City to contact the institution to inquire as to the financial status of the contractor.

Multiple Vendors

The City encourages free and open competition among offerors. Whenever possible, the City will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the City's need to procure technically sound, cost-effective services and supplies. While the City expects to make only one award, multiple vendors may form a team to submit a joint proposal. All firms and individuals involved in each team must be identified in the proposal. A single individual and firm must be designated as having overall responsibility for services. The lead individual and firm will serve as the City's primary contact and will be responsible for ensuring agreed-upon timelines and work requirements are met.

Insurance Requirements

Prior to the award of a contract, the Contractor shall furnish a Certificate of Coverage or other proof that it has the following insurance with the City named as additional insured that must remain in force for a period of at least one year after completion of the work:

- Commercial General Liability, Contractual Liability, Products/Complete Operations Liability, Owners and Contractors Protective Liability, Errors and Omissions, and Personal Injury Liability Insurance - \$2,000,000 Combined Single Limit Bodily Injury and Property Damage – each occurrence.
- Comprehensive Automobile Liability Insurance - \$1,000,000 Combined Single Limit Injury and Property Damage Liability – each occurrence.
- Umbrella - \$1,000,000
- Workers' Compensation Insurance - \$100,000 Bodily Injury by Accident – each accident; \$500,000 Bodily Injury by Disease – policy limit; and \$100,000 Bodily Injury by Disease – each employee.

Required Forms

Certification of RFP Submittal and Acknowledgement of Addenda

See Attachment B

The person that signs the RFP shall have the authority to negotiate the full scope of services on behalf of the organization and shall be authorized to bind the contract to the terms and conditions of this RFP.

Georgia Illegal Immigration Reform and Enforcement Act (IIREA) Form

See Attachment C

In compliance with Georgia Security & Immigration Compliance Act of 2006 – O.C.G.A. 13-10-91, no public employer shall enter into a contract pursuant to this chapter for the physical performance of services within this state unless the contractor registers and participates in the federal work authorization program to verify information of all newly hired employees or subcontractors. Before a bid for any such service is considered by a public employer, the bid shall include a signed, notarized affidavit from the contractor attesting to the following:

- (A) The affiant has registered with and is authorized to use the federal work authorization program;
- (B) The user identification number and date of authorization for the affiant; and
- (C) The affiant is using and will continue to use the federal work authorization program throughout the contract period.

Terminations Form

See Attachment D

Interested Offerors are required to list each and every project within the previous five (5) years on which it was terminated or failed to complete the project.

LCI Consultant Proposal Evaluations

(15 Points)	Quality and thoroughness of the proposal.
CPL	10
Sizemore	15
TSW	8
Lord Aeck Sargent	5
DT Redevelopment	5
MKSK	15
The Collaborative	6
Pond	15
Wood	15

FINAL TALLY		
	CPL	60
	Sizemore	73
	TSW	63
	Lord Aeck Sargent	55
	DT Redevelopment	52
	MKSK	80
	The Collaborative	51
	Pond	65
	Wood	75

(30 Points)	Related experience of the firm/team with similar projects
CPL	20
Sizemore	25
TSW	25
Lord Aeck Sargent	25
DT Redevelopment	15
MKSK	20
The Collaborative	10
Pond	20
Wood	20

(25 Points)	Approach to community engagement
CPL	20
Sizemore	15
TSW	15
Lord Aeck Sargent	10
DT Redevelopment	20
MKSK	23
The Collaborative	20
Pond	15
Wood	15

(15 Points)	Demonstrated ability to perform high quality work
CPL	5
Sizemore	8
TSW	10
Lord Aeck Sargent	10
DT Redevelopment	5
MKSK	12
The Collaborative	8
Pond	10
Wood	15

(15 Points)	Pricing approach related to the tasks listed							
	Task 1: Existing			Task 4:				
	Conditions	Task 2: Housing and	Task 3: Public	Development	Task 5 : Project			
<u>Consulting Firm</u>	Assessment	Market Analysis	Input	Concept Plan	Deliverables	TOTAL		
CPL	5	\$19,400.00	\$33,900.00	\$24,000.00	\$35,800.00	\$10,250.00	\$123,350.00	Over Budget
Sizemore	10	\$12,130.00	\$25,000.00	\$30,050.00	\$35,665.00	\$17,040.00	\$119,885.00	Under Budget
TSW	5	\$14,500.00	\$14,750.00	\$37,500.00	\$46,650.00	\$11,600.00	\$125,000.00	Over Budget
Lord Aeck Sargent	5	\$16,020.00	\$26,610.00	\$34,530.00	\$30,450.00	\$17,210.00	\$124,820.00	Over Budget
DT Redevelopment	7	\$10,830.00	\$35,010.00	\$19,520.00	\$26,760.00	\$22,850.00	\$114,970.00	Under Budget
MKSK	10	\$16,600.00	\$14,200.00	\$31,000.00	\$41,800.00	\$16,400.00	\$120,000.00	Under Budget
The Collaborative	7	\$14,435.00	\$18,000.00	\$20,711.00	\$30,220.00	\$34,125.00	\$119,991.00	Under Budget
Pond	5	\$18,105.00	\$39,110.00	\$25,065.00	\$28,685.00	\$14,035.00	\$125,000.00	Over Budget
Wood	10	\$18,900.00	\$34,120.00	\$31,500.00	\$17,430.00	\$17,550.00	\$119,500.00	Under Budget
AVERAGE		\$15,657.78	\$26,744.44	\$28,208.44	\$32,606.67	\$17,895.56	\$121,390.00	

LCI Name	Year	Acres	Year (Grandfathered)	Study Type
Kennesaw	2003	271	2003	Town Center
Mableton	2002	249	GF	Activity Center
Moreland	2007	812	GF	Corridor
Duluth	2000	255	2000	Town Center
Oakland City / Fort McPherson	2004	1292	GF	Activity Center
Indian Trail-Lilburn	2006	883	2006	Corridor
Town Center	2004	3364	2004	Activity Center
McDonough	2004	4343	2004	Town Center
ChattHill Country West Village	2003	1447	2003	Activity Center
Avondale Estates	2013	125	2013	Town Center
Medline	2013	520	2013	Activity Center
Cumberland	2001	1081	2001	Activity Center
Bells Ferry	2005	1511	2005	Corridor
Wesley Chapel Activity Center	2010	1480	2010	Activity Center
McFarland-Stoney Point	2005	2113	2005	Activity Center
Six Flags	2011	2196	2011	Activity Center
Austell	2002	112	2002	Town Center
Candler-Flat Shoals	2006	1900	2006	Activity Center
Holly Springs	2004	659	2004	Town Center
Hudson Bridge	2009	1303	2009	Corridor
Winder	2009	614	2009	Town Center
Milton - Hwy 9	2011	1978	2011	Activity Center
Roswell	2014	1125	GF	Corridor
Monroe	2007	812	2007	Town Center
Georgetown / North Shallowford	2011	374	GF	Activity Center
Northlake-Tucker	2001	945	2001	Activity Center
Union City	2003	769	2003	Town Center
Hampton Town Center	2010	513	2010	Town Center
Douglasville	2000	2295	2000	Town Center
Canton	2000	195	2000	Town Center
Griffin	2006	341	2006	Town Center
Hiram	2014	328	2014	Activity Center
Midtown	2000	1052	GF	Activity Center
Powder Springs	2002	1052	2002	Town Center
Lithonia	2003	568	2003	Town Center
East Point	2004	1409	2004	Town Center
Newnan	2013	336	2013	Town Center
Tri County Crossroads	2008	1500	2008	Activity Center
Loganville	2009	1100	2009	Town Center
Lakewood	2012	1696	2012	Activity Center
SR 9-Atlanta RD	2007	702	2007	Corridor
Forest Park	2001	911	2001	Town Center
Vine City	2008	547	2008	Activity Center
Stonecrest	2012	2485	2012	Activity Center
Fayetteville	2002	928	2002	Town Center

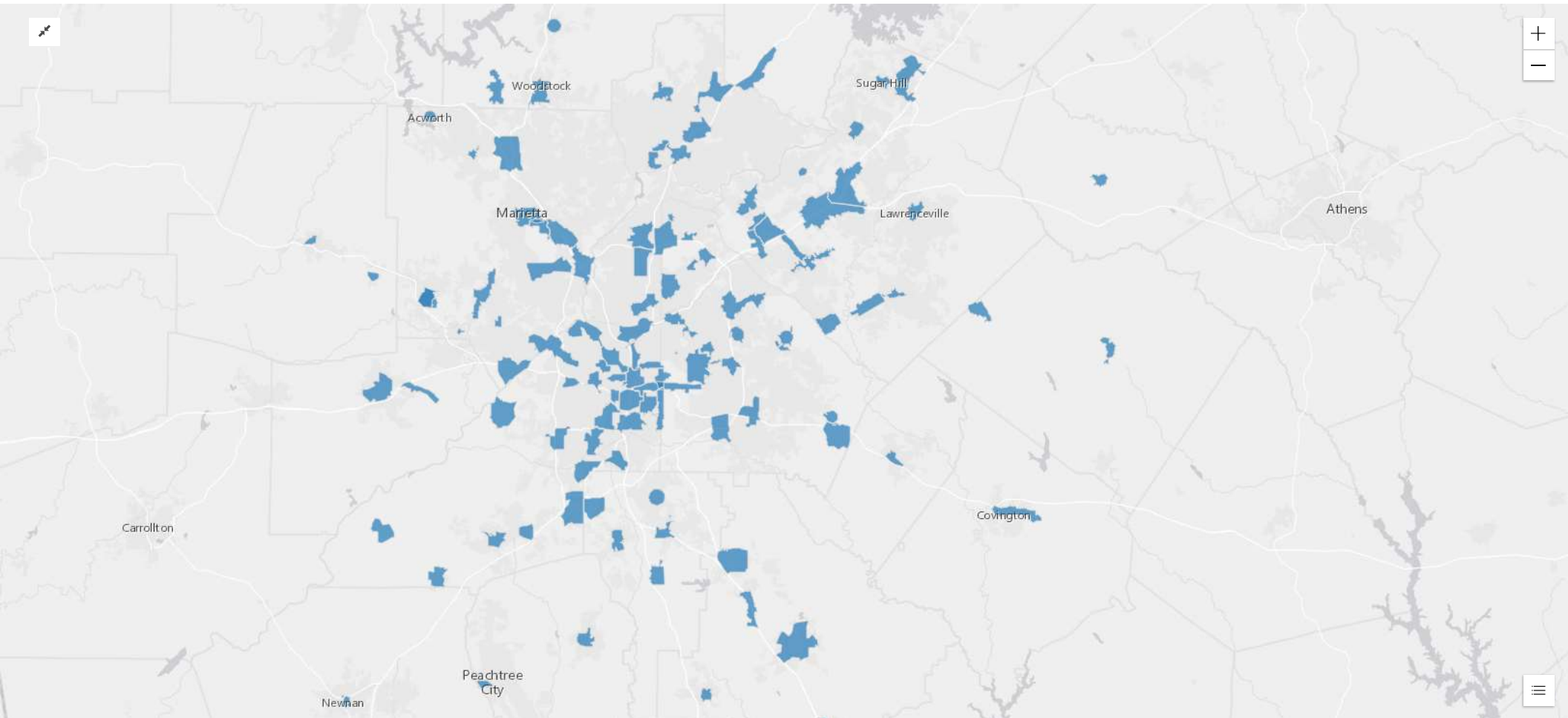
LCI Name	Year	Acres	Year (Grandfathered)	Study Type
Downtown Alpharetta	2006	182	GF	Town Center
Turner Field	2015			
Downtown Atlanta	2009	1363	2009	Activity Center
Northwest Clayton	2004	1553	2004	Activity Center
Roswell	2003	464	GF	Corridor
Stockbridge	2000	2678	2000	Town Center
Locust Grove	2015			
Jonesboro	2003	1167	2003	Town Center
Fairburn Town Center	2008	953	2008	Town Center
Old National	2003	2679	2003	Activity Center
Doraville GM Plant	2010	701	2010	Activity Center
Buckhead	2001	1333	2001	Activity Center
Dallas	2006	324	2006	Town Center
BeltLine Subarea 7	2014	2075	GF	BeltLine
Palmetto Town Center	2008	1205	2008	Town Center
Ponce de Leon	2007	640	GF	Corridor
Peachtree City	2000	384	2000	Activity Center
Buford	2004	1264	2004	Town Center
Sugar Hill	2006	529	GF	Town Center
Morrow - Southlake Mall	2010	806	2010	Activity Center
Marietta Univ. District	2012	862	2012	Activity Center
Delk Road TOD	2004	2172	2004	Activity Center
Jimmy Carter Boulevard	2007	1040	GF	Corridor
North Point	2007	1823	2007	Activity Center
Kensington Station	2002	870	2002	Activity Center
Marietta	2000	1778	2000	Town Center
Morrow	2000	21	2000	Activity Center
Clarkston	2004	684	2004	Town Center
Acworth	2001	497	2001	Town Center
Hapeville	2005	1059	2005	Town Center
Bankhead	2005	533	2005	Activity Center
H.E. Holmes	2002	519	2002	Activity Center
Powder Springs				
Riverdale	2006	962	2006	Town Center
West Lake	2006	723	2006	Activity Center
Sandy Springs	2000	2011	2000	Town Center
Suwanee	2001	795	GF	Town Center
West End	2000	429	2000	Activity Center
Dunwoody Village	2010	164	2010	Town Center
Highway 278 Covington-Newton	2005	1749	2005	Corridor
Roswell Road	2007	1756	2007	Corridor
DL Hollowell-Veterans Memorial	2009	2716	2009	Corridor
Norcross	2001	533	2001	Town Center
Snellville	2003	443	2003	Town Center
Highway 29	2011	1235	GF	Corridor

LCI Name	Year	Acres	Year (Grandfathered)	Study Type
North Druid Hills	2009	1190	2009	Corridor
Hwy 78	2005	1475	2005	Corridor
South Moreland	2007	1156	2007	Corridor
Sandtown	2002	2475	2002	Activity Center
Highway 92	2007	963	2007	Corridor
Decatur	2000	2760	GF	Town Center
Bolton/Moores Mill	2002	1865	2002	Activity Center
Woodstock	2002	870	2002	Town Center
Milton	2014	989	2014	Activity Center
BeltLine Subarea 3	2014	1104	GF	BeltLine
Stone Mountain	2003	426	2003	Town Center
Emory Village	2003	29	GF	Activity Center
Park Place	2008	1389	GF	Activity Center
Norcross Activity Center	2008	1918	2008	Activity Center
Perimeter	2001	2320	2001	Activity Center
Upper Westside	2004	1411	2004	Activity Center
Smyrna	2003	2433	2003	Town Center
Brookhaven	2005	1583	2005	Activity Center
Chamblee	2013	292	2013	Town Center
Downtown Lawrenceville	2006	879	GF	Town Center
Austell Rd	2006	1837	2006	Corridor
Peachtree Corners	2014	1435	2014	Regional Center
West Griffin	2009	914	2009	Activity Center
Greenbriar	2000	1338	2000	Activity Center
Memorial Drive	2003	2026	GF	Activity Center
Ball Ground	2017	748		Town Center
College Park	2007	1493	2007	Activity Center
Conyers	2000	544	2000	Town Center
Gwinnett Place	2001	4636	2001	Activity Center
Sugarloaf	GF	3736	2018	Activity Center



Livable Centers Initiative

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CITY OF VILLA RICA

City Council Packet

SUBJECT: Abandonment of Dallas Road Right-of-Way

CITY COUNCIL AGENDA DATE: October 13, 2020

DATE: September 15, 2020

PREPARED BY: Chris Montesinos, AICP
Deputy Director of Community Development

FISCAL IMPACT:

ANNUAL – N/A

CAPITAL – N/A

OTHER – N/A

FUNDING SOURCE: N/A

PURPOSE: This agenda item is for the abandonment and sale of the Dallas Road Right-of-Way located in the parking lot of the First Presbyterian Church of Villa Rica at 519 Main St, Villa Rica, GA 30180.

BACKGROUND: The City commissioned an appraisal of the Dallas Road Right-of-Way in December 2019 to assess the value of roughly 4,200sf of land owned by the City. The land is situated between their house of worship and adjacent parking lot. The church has decided to accept the City's appraisal in place of commissioning their own. The "As Is" market value of the fee simple interest on the City-owned property is \$8,000.00 as of October 24, 2019. Internal audits indicate that there are no public utilities that are installed on the property, and staff finds no public detriment to the sale of the right-of-way to the First Presbyterian Church. If affirmatively voted on by the Villa Rica Mayor and City Council, the City Attorney's office will handle the details of the sales transaction.

STAFF RECOMMENDATION: Sale of the Dallas Road Right-of-Way to the First Presbyterian Church in the Fair Market Value indicated in the Appraisal Report.

IMPACT: No foreseeable impact on the City.

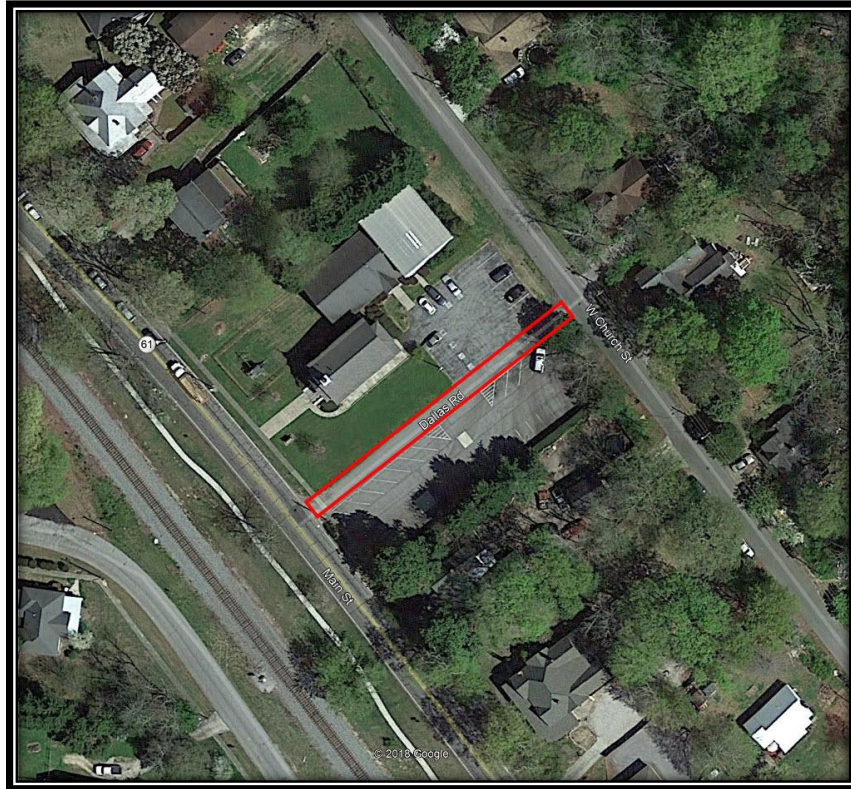
MOTION:

Motion to approve the abandonment and sale of the Dallas Road Right-of-Way to the First Presbyterian Church in the amount of Eight-Thousand Dollars (\$8,000.00), and appointment of the City Attorney's office to transact the sale.

APPRAISAL REPORT

OF:

**± 4,200 SF of Land Presently Known As Dallas Road
Villa Rica, Carroll County, GA 30180**



Property lines shown are approximate

PREPARED FOR:

**City of Villa Rica
c/o Tom Barber
571 W. Bankhead Hwy.
Villa Rica, GA 30180**

PREPARED BY:

**Bass & Associates
250 Cottage Hill Road
Carrollton, GA 30117**

Bass & Associates File No. 2346

**Effective Date: October 24, 2019
Date of Report: December 6, 2019**



December 6, 2019

City of Villa Rica
c/o Tom Barber
571 W. Bankhead Hwy.
Villa Rica, GA 30180

Re: Appraisal of $\pm$ 4,200 SF of land presently known as Dallas Road, Villa Rica, Carroll County, GA 30180.

Dear Mr. Barber:

At your request, we have conducted the inspection, investigation, and analyses necessary to appraise the above-referenced property. The subject property involves $\pm$ 4,200 SF ($\pm$ 0.096 acres) of land which is utilized as right-of-way for Dallas Road. This land is being considered by the City of Villa Rica to abandon to the adjoining First Presbyterian Church of Villa Rica property (on both sides of Dallas Road). The land is level and has an elongated shape (20' wide and approximately 210' long) with asphalt paving. Based on an email from Chris Montesinos, Deputy Director of Community Development for the City of Villa Rica, Dallas Road was never built by the city and the existing paving is assumed to have been installed by First Presbyterian Church. Therefore, any potential benefit of the paving is not included in this appraisal. The property is more fully described in the attached report.

The purpose of the appraisal is to provide you with our reasonable, well-documented opinion of the "As Is" market value of the fee simple interest in the subject property. Although we utilize a typical definition of market value, because of size, shape, and building setback requirements, the only market for the subject appears to be the owner of the contiguous property. The effective date of value is October 24, 2019, the date of inspection. This appraisal is provided in an Appraisal Report format. We have utilized only the Sales Comparison Approach to value. It is uncommon in the local market for vacant tracts, such as the subject, to be leased. Therefore, the Income Approach to value is not used. Further, as vacant land, the Cost Approach to value is not applicable. The omission of these approaches has no impact on the credibility of this report.

This appraisal conforms to the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board. Further, it is in conformity with the requirements of the *Code of Professional Ethics* of the Appraisal Institute, the *Standards of Professional Appraisal Practice* of the Appraisal Institute, and the *Uniform Standards of Professional Appraisal Practice* as promulgated by The Appraisal Foundation. Neither the engagement of this assignment nor of future assignments for the client is contingent upon reaching a "directed" or "favorable" value conclusion.

Mr. Barber
December 6, 2019
Page Two

Based on the market data presented in the attached report, and our analysis of it, it is our concluded opinion that the "As Is" market value of the fee simple interest in the subject property as of October 24, 2019, is:

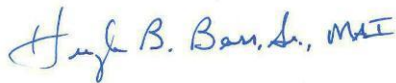
Eight Thousand Dollars
---\$8,000---

This value is subject to the ***Hypothetical Condition*** (see definition in Addenda) that the area within subject street right-of-way is utilized for private ownership by the adjoining property owner rather than a public street. If the condition does not materialize, the value conclusion of this appraisal could be impacted.

Thank you for the opportunity to serve you in this matter. Please feel free to contact me if further assistance is needed.

Respectfully submitted,

Bass & Associates



Hugh B. Bass, Sr., MAI
Georgia Certified General Real
Property Appraiser No. 435



Thomas J. Bass
Georgia Registered Real
Property Appraiser No. 331743

ASSIGNMENT INFORMATION

Property Identification: $\pm$ 4,200 SF of land presently known as Dallas Road, Villa Rica, Carroll County, GA 30180.	Prepared By: Bass & Associates 250 Cottage Hill Road Carrollton, GA 30117	Prepared For: City of Villa Rica C/o Tom Barber 571 W. Bankhead Hwy. Villa Rica, GA 30180
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DATES/INTEREST APPRAISED/VALUE TYPE

Effective Date	Date of Report	Interest Appraised	Value Type
October 24, 2019	December 6, 2019	Fee Simple	Market, as defined in Addenda.

CLIENT/INTENDED USER/INTENDED USE/SCOPE OF WORK

Client: Tom Barber with the City of Villa Rica.

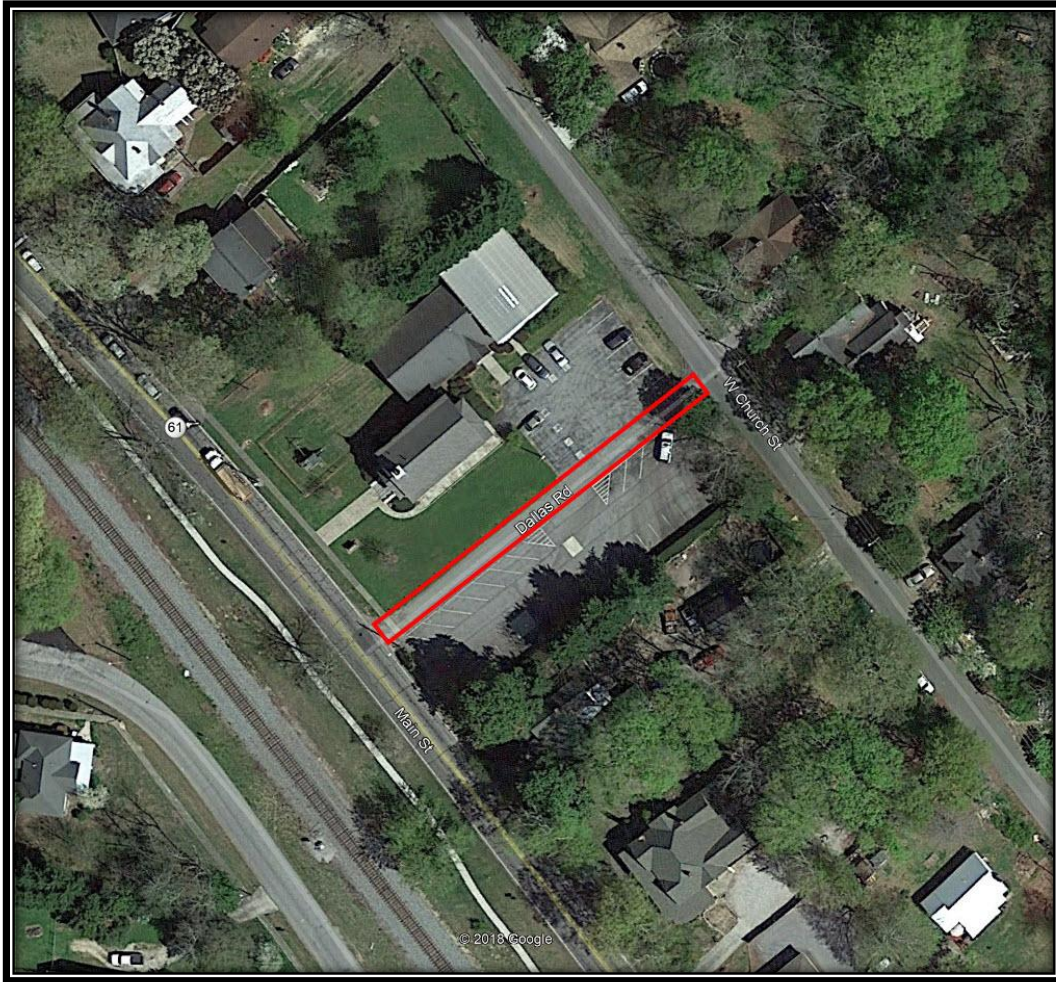
Intended User: Tom Barber and other officials of the City of Villa Rica directly and materially involved in the subject property.

Intended Use: The intended use of the appraisal is to estimate the market value of the subject for the abandonment of the right-of-way by the City of Villa Rica.

Scope of Work: Bass & Associates was engaged by Tom Barber, City Manager of Villa Rica, on behalf of the City of Villa Rica, to appraise the subject property. The subject was inspected to become aware of the general physical characteristics of the land. It was not as intensive of inspection as may be conducted by a civil engineer, surveyor, or other such professional. It was reported to us by Chris Montesinos, Deputy Director of Community Development for the City of Villa Rica, that the Dallas Road right-of-way is 20' x 210' ($\pm$ 4,200 SF).

In light of the fact that the subject is considered as vacant land (it is improved pavement by First Presbyterian Church, but it is a **Hypothetical Condition** of the appraisal that the right-of-way is converted to private ownership by the adjoining property owner), only the Sales Comparison Approach to value is used to provide a value indication for the subject. Therefore, we gathered sales of comparable land for use in valuing the subject. As a narrow, elongated street right-of-way, the property has no significant market value as a stand-alone tract. It is our opinion that the proper way to estimate the value of the subject is as it contributes to the adjoining land: a $\pm$ 0.74-acre, DT – Downtown District zoned property improved with a religious facility and a $\pm$ 0.33-acre, DT – Downtown District zoned property improved with a parking lot serving the religious facility (both properties have same ownership). The Sales Comparison Approach is discussed in more detail subsequently.

SUBJECT PROPERTY DESCRIPTION



Estimated property lines delineated in red by the appraiser.

Property type	City-owned right-of-way	Land Size	± 4,200 SF ± 0.096 Acres
Owner	City of Villa Rica	Shape/Frontage	Elongated/20' wide and about 210' feet in length
Recent history	No transfer of title noted within the past three years.	Topography	Site prepared and level
Ground Cover	Asphalt paved	Flood Plain	None
Access	Typical	Exposure	Moderate
Zoning	N/A, but adjoining land is zoned DT – Downtown District with a DO-CMU, Commercial Mixed-Use overlay	Taxes	N/A – city-owned property
Esmnts., Restr., etc.	No major easements noted. Local utility easements are typical, they are assumed to be present, and typically have no adverse impact on value.		
Utilities	All public utilities are available.		

Comments: The subject property is the right-of-way of Dallas Road. This is a short, local street which connects Main Street (SR 61) and W. Church Street. This relatively narrow street has limited use for the public as a cut-through street between these two streets. The primary use of Dallas Road appears to be for access and parking for First Presbyterian Church. It is located on the northwesterly edge of downtown Villa Rica. Residential uses are situated on either side of the First Presbyterian Church of Villa Rica property. The city block on the northwest side of Dallas Road includes three houses, one dental office, and the First Presbyterian Church. The city block on the southeast side of Dallas Road includes three houses and one multi-tenant office.

Note: Photographs of the subject and aerial map are provided in the Addenda.

HIGHEST AND BEST USE

As Though Vacant: Currently, the subject land is city-owned right-of-way which is utilized for Dallas Road. The land on both sides of the road is owned by the First Presbyterian Church of Villa Rica and is zoned DT-Downtown District with a DO-CMU, Commercial Mixed-Use overlay by the City of Villa Rica. As a stand-alone parcel, the subject is capable of being improved (no min. lot size, 3-foot side setback, etc.); however, this would result a very elongated structure and would not be desirable. Therefore, we conclude the First Presbyterian Church of Villa Rica is the only potential user of the subject. The First Presbyterian Church owns a religious facility along the northwesterly side of Dallas Road (± 0.74 acres) and a parking lot along the southeasterly side (± 0.33 ac res). We conclude that the Highest and Best Use of the subject land (assuming for private ownership and not public use), is to utilize it in conjunction with the surrounding property (total land area of $\pm 50,809$ SF or ± 1.166 acres).

VALUATION

The Sales Comparison Approach involves comparing the property being appraised with current sales of similar property which would compete with the subject if they were exposed on the market simultaneously. The sales are compared to the subject giving consideration to the physical and economic factors which significantly impact value such as location, size, overall desirability, other amenities, etc.

This approach is based on the principle of substitution which implies that a prudent investor will pay no more for a property than it would cost to purchase an equally desirable substitute. Application of the Sales Comparison Approach in many cases best reflects the motivations and attitudes of buyers and sellers in the market. This is particularly true when dealing with real estate which is typically owner/user oriented.

The Georgia Real Estate Appraiser Board requires that sales utilized shall be within one year of the effective date of value and within the market area of the subject or that an appropriate explanation is provided. The subject's market area is determined to be Carroll County. Due to the limited number of sales of similar properties in the area, it was necessary for us to extend our search to over a year. The land sales occurred between June 2017 and October 2018. Additionally, it was necessary for us to extend our search for sales into other similar market areas of the West Atlanta MSA.

As previously stated, as a narrow, elongated street right-of-way, the subject has no significant market value as a stand-alone tract. It is our opinion that the proper way to estimate the value of the subject is as it contributes to the adjoining land: a ± 0.74 -acre, DT – Downtown District zoned property improved with a religious facility and a ± 0.33 -acre, DT – Downtown District zoned property improved with a parking lot serving the religious facility (both properties have same ownership). The total land size of these parcels plus the Dallas Road right-of-way is $\pm 50,809$ SF or ± 1.166 acres.

Land sales which are considered to be most appropriate for use in estimating the market value of the subject are summarized on the following pages. A land sales location map and adjustment grid follows. We focused our search for land sales with similar utility and located close to downtown areas. In order to value the subject, we will first conclude a per SF market value of the subject land plus the land owned by the First Presbyterian Church of Villa Rica (total land area of $\pm 50,809$ SF or ± 1.166 acres) “As Though Vacant.” Then, we will apply our concluded per acre value to the estimated subject land size of $\pm 4,200$ SF to achieve the total value of the subject.

LAND SALE NO. 1



Property Identification

Location	47 Fair Street Newnan, Coweta County, GA	Property Type	Commercial lot
		Tax Parcel No.	N23 0005 009

Sale Data

Grantor	Kathleen Willingham	Property Rights	Fee simple
Grantee	47 Fair Street, LLC	Financing	Cash equivalent
Sale Date	October-18	Conditions of Sale	Arm's length
Sale Price	\$40,000	Deed Book/Page	4766/314
Marketing Time	About 10 months	Plat Book/Page	N/A

Land Data

Size	0.71 acres	Utilities	All public utilities available
	30,928 SF	Flood Plain	None noted
Shape	Rectangular	Easements	No major easements noted
Road Frontage	Corner	Access/Exposure	Average/Fair
Topography	Level	Highest & Best Use	Secondary commercial
Ground Cover	Open with scattered trees		

Indicators

Sale Price/Acre	\$56,338	Sale Price/SF	\$1.29
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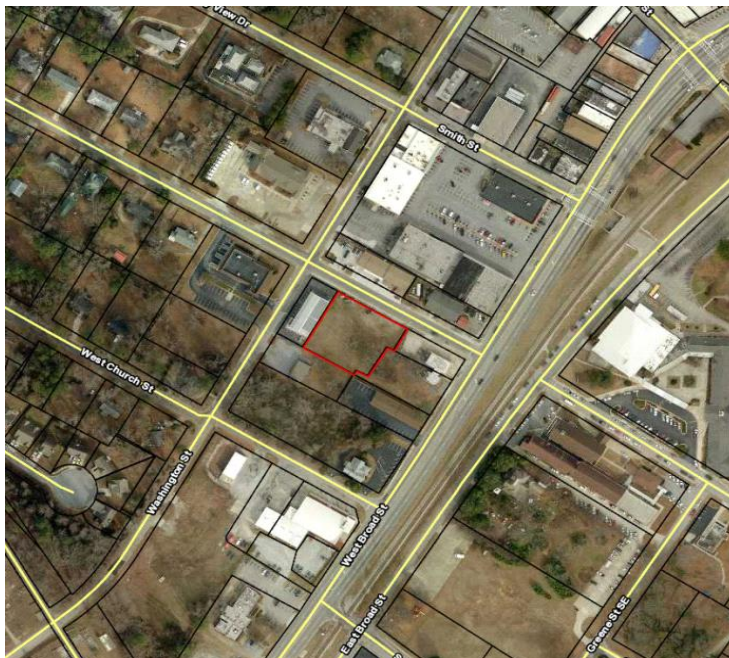
Verification

Georgia MLS, public records, and field inspection.

Remarks

This lot sale is located northwest of downtown Newnan, just off the Temple Avenue (SR 16) corridor. The area consists of secondary commercial uses and below-average quality houses. The neighborhood has a below average appeal for Newnan. It is zoned CUN, Urban Neighborhood Commercial District.

LAND SALE NO. 2



Property Identification

Location	SW/s of SW Malone St Fairburn, Fulton County, GA	Property Type	Downtown lot
		Tax Parcel No.	09F100300520536

Sale Data

Grantor	Dario Duarte	Property Rights	Fee simple
Grantee	We Are Fairburn, LLC	Financing	Cash equivalent
Sale Date	May-18	Conditions of Sale	Arm's length
Sale Price	\$68,000	Deed Book/Page	58854/651
Marketing Time	About 1.5 months	Plat Book/Page	N/A

Land Data

Size	0.65 acres	Utilities	All public utilities available
	28,314 SF	Flood Plain	None noted
Shape	Mostly Rectangular	Easements	No major easements noted
Road Frontage	Typical	Access/Exposure	Average/Fair
Topography	Gently downward sloping	Highest & Best Use	Secondary commercial
Ground Cover	Open		

Indicators

Sale Price/Acre	\$104,615	Sale Price/SF	\$2.40
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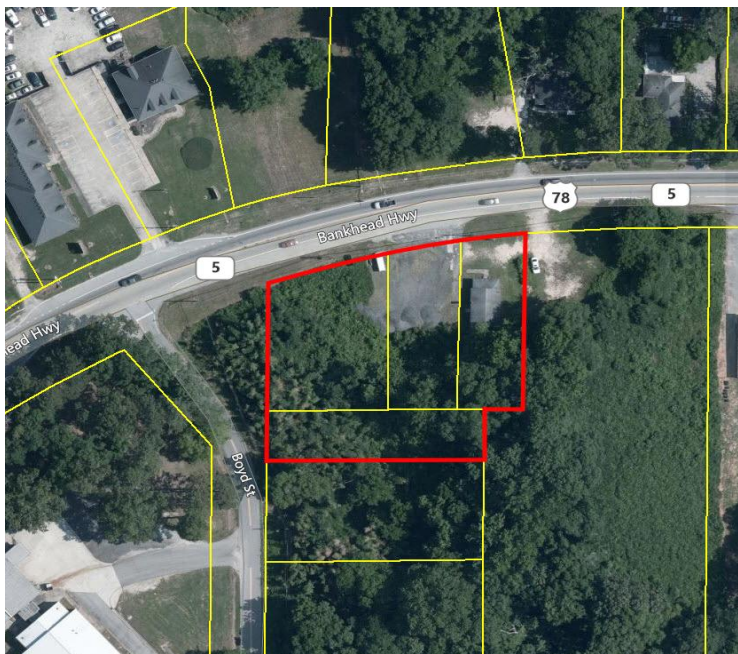
Verification

Georgia MLS, public records, and field inspection.

Remarks

This sale lot is located on the southerly side of downtown Fairburn. It is situated along a secondary street, about half a block off SW Broad Street (main corridor through downtown Fairburn).

LAND SALE NO. 3



Property Identification

Location	Veterans Mem. Hwy. & Boyd St. Lithia Springs, Douglas County, GA	Property Type	Commercial lot
		Tax Parcel No.	03191820019, etal

Sale Data

Grantor	Nell Williams	Property Rights	Fee simple
Grantee	True Gospel Mission International	Financing	Seller financing. No impact.
Sale Date	April-18	Conditions of Sale	Arm's length
Sale Price	\$100,000	Deed Book/Page	3591/782
Marketing Time	About 3 months	Plat Book/Page	N/A

Land Data

Size	0.96 acres	Utilities	All public utilities available
	41,818 SF	Flood Plain	None noted
Shape	Rectangular	Easements	No major easement noted
Road Frontage	Corner	Access/Exposure	Good/Good
Topography	Level to gently sloping	Highest & Best Use	Secondary commercial
Ground Cover	Mostly overgrown		

Indicators

Sale Price/Acre	\$104,167	Sale Price/SF	\$2.39
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Verification

Georgia MLS, public records, and field inspection.

Remarks

This corner lot is located in the southeasterly corner of Veterans Memorial Highway (U.S. 278) and Boyd Street. It is situated about half a mile west of Thornton Road. A relatively new, good-quality, multi-tenant office building is located across Veterans Memorial Highway from the sale property; however, most of the land uses in the area along Veterans Memorial Highway consist of older, secondary commercial and residential properties. Veterans Memorial Highway has a traffic volume of about 16,000 vehicles per day. The lot is improved with a small, ± 912 SF house in below average condition which is judged to have a modest to moderate contributory value.

LAND SALE NO. 4



Property Identification

Location	416 Rome Street Carrollton, GA	Property Type	Downtown lot
		Tax Parcel No.	C02 0040004

Sale Data

Grantor	Mara Ann C. Loftin	Property Rights	Fee simple
Grantee	Richard A. Diment	Financing	Cash equivalent
Sale Date	February-18	Conditions of Sale	Arm's length
Sale Price	\$180,000	Deed Book/Page	5613/045
Marketing Time	Unknown	Plat Book/Page	N/A

Land Data

Size	1.17 acres	Utilities	All public utilities available
	50,965 SF	Flood Plain	None noted
Shape	Flag	Easements	No major easements noted
Road Frontage	Corner, ample	Access/Exposure	Average/Average
Topography	Generally level	Highest & Best Use	Residential/Secondary commercial
Ground Cover	Open & wooded		

Indicators

Sale Price/Acre	\$153,846	Sale Price/SF	\$3.53
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Verification

City of Carrollton planning and zoning documents, public records, and field inspection.

Remarks

This lot is located on the north side of downtown Carrollton along Rome Street and W. Reese Street. Current plans for the lot are for a residential development with detached houses.

LAND SALE NO. 5



Property Identification

Location	W/s of Community Square Blvd. Villa Rica, Carroll County	Property Type	Office lot
		Tax Parcel No.	V02 0070489

Sale Data

Grantor	REO Funding Solutions II, LLC	Property Rights	Fee simple
Grantee	J. Donald Hudgins	Financing	Cash equivalent
Sale Date	June-17	Conditions of Sale	Bank OREO
Sale Price	\$52,250	Deed Book/Page	5558/232
Marketing Time	Unknown	Plat Book/Page	80/208

Land Data

Size	0.991 acres	Utilities	All public utilities available
	43,168 SF	Flood Plain	None noted
Shape	Rectangular	Easements	Multiple. See remarks.
Road Frontage	Typical	Access/Exposure	Average/Fair
Topography	Level (usable area)	Highest & Best Use	Office
Ground Cover	Open		

Indicators

Sale Price/Acre	\$52,725	Sale Price/SF	\$1.21
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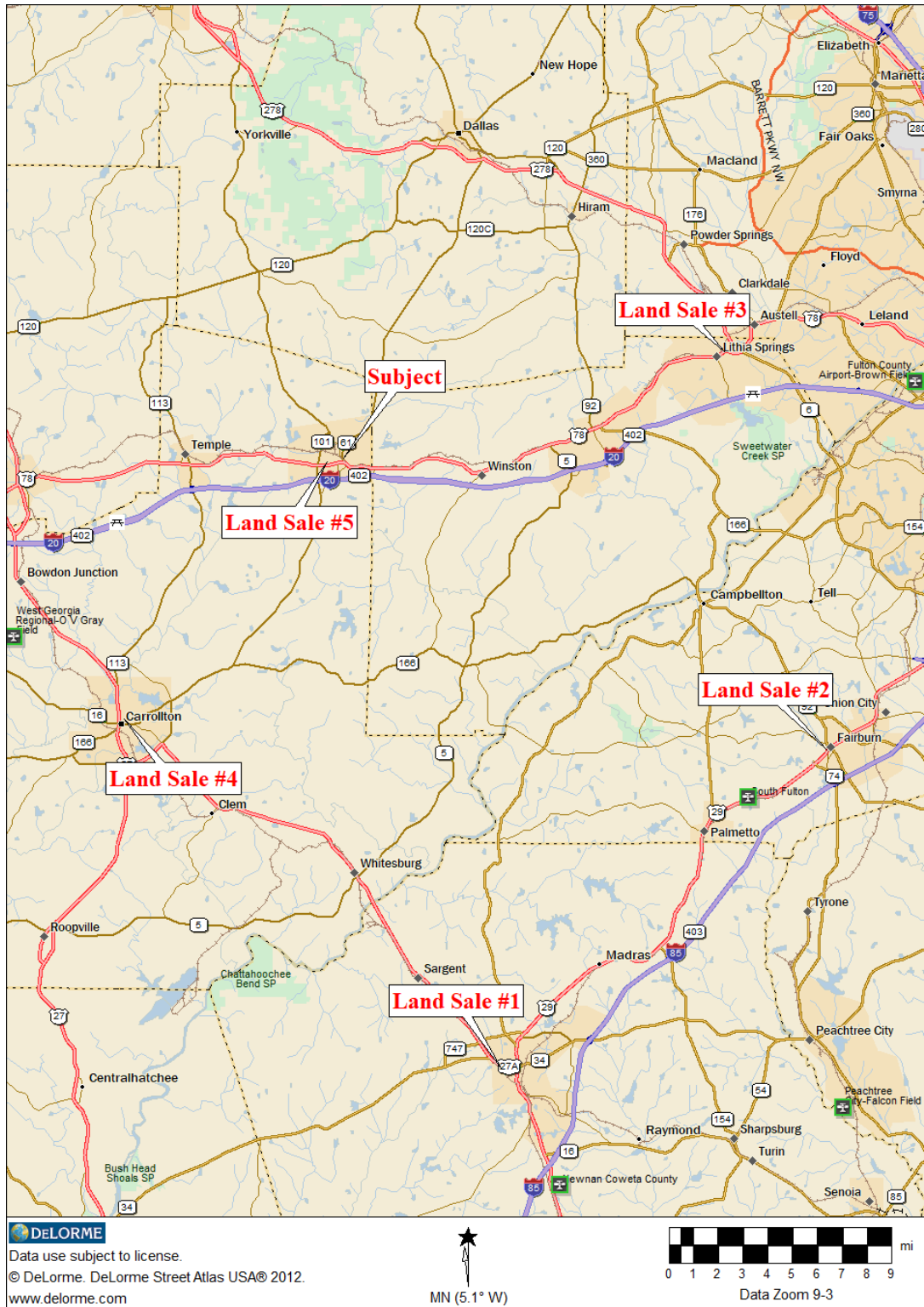
Verification

CoStar, public records, and field inspection.

Remarks

This lot is located along a short, dead-end street that extends off U.S. Highway 78. Other uses include office and secondary retail. The easterly lot line extends to the middle of a shared driveway and an ingress/egress easement extends along this portion of the lot. Additionally, drainage easements are located along the southerly and westerly property lines, but have minimal impact. The rear of the lot (wooded area) slopes downward. The lot is 0.991 acres in size; however, overall, we conclude that the easements and sloped area render about 0.6 acres of the lot usable. Although an OREO sale, it was marketed for an extended period of time before selling and is believed to have sold at a market price.

LAND SALE LOCATION MAP



LAND SALES ADJUSTMENT GRID						
ITEM	SUBJECT	SALE 1	SALE 2	SALE 3	SALE 4	SALE 5
Date	Oct-19	Oct-18	May-18	Apr-18	Feb-18	Jun-17
Price/SF		\$1.29	\$2.40	\$2.39	\$3.53	\$1.21
<u>Transactional Adjustments</u>						
Market Conditions	Oct-19	Oct-18	May-18	Apr-18	Feb-18	Jun-17
		<u>0%</u>	<u>7%</u>	<u>8%</u>	<u>8%</u>	<u>12%</u>
Adjusted Price/SF		\$1.29	\$2.57	\$2.58	\$3.81	\$1.36
<u>Physical Adjustments</u>						
LOCATION	Average	Similar 0%	Superior -10%	Superior -5%	Superior -25%	Similar 0%
SIZE	± 50,809 SF	30,928 SF 0%	28,314 SF -10%	41,818 SF 0%	50,965 SF 0%	26,136 SF -10%
SHAPE	Rectangular	Rectangular 0%	Mostly Rectangular 0%	Rectangular 0%	Flag 5%	Rectangular 0%
FRONTAGE	Double	Corner 0%	Typical 5%	Corner 0%	Corner, ample 0%	Typical 5%
TOPOGRAPHY	Site prepared, level	Level 0%	Gently downward sloping 5%	Level to gently sloping 5%	Generally level 0%	Level (usable area) 0%
GROUND COVER	Open	Open with scattered trees 0%	Open 0%	Mostly overgrown 0%	Open & wooded 0%	Open 0%
ACCESS/EXPOSURE	Average/Average	Average/Fair 5%	Average/Fair 5%	Good/Good -10%	Average/Average 0%	Average/Fair 5%
OTHER	None	None	None	House	None	Ingress/egress & drainage
		<u>0%</u>	<u>0%</u>	<u>-15%</u>	<u>0%</u>	<u>30%</u>
NET ADJUSTMENT		5%	-5%	-25%	-20%	30%
GROSS ADJUSTMENT		5%	42%	43%	38%	62%
INDICATED VALUE TO SUBJECT (PER SF)		\$1.36	\$2.44	\$1.94	\$3.05	\$1.76

Reconciliation of Value: The sales are adjusted upward for features inferior to the subject and downward for features superior to the subject. The adjustments are not intended to be mathematically precise, but instead a numerical expression of our opinion. The sales are adjusted upward for improving market conditions at a rate of 5% per year (rounded to the nearest whole percentage).

As can be noted from the adjustment grid, the sales resulted in an indicated value range for the subject from \$1.36/SF to \$3.05/SF. The average is \$2.11/SF with a median of \$1.94/SF. Sale 1 has the lowest gross adjustment indicating it is the most comparable to the subject (has the least amount of subjectivity in the value indication). It is given the greatest consideration in the reconciliation of value. Land Sales 2, 3, and 4 have the next lowest gross adjustments. Sale 5 has the highest gross adjustment, largely due to the impact on the usable area due to the ingress/egress and drainage easements. However, this sale is located in the Villa Rica market. Therefore, Sales 2, 3, 4, and 5 are given moderate weight.

Based on this market data and our analysis of it, we have concluded that the Sales Comparison Approach indicates a market value for the subject of \$1.90/SF. With a total of about 50,809 SF, our estimated value for the First Presbyterian Church of Villa Rica property "As Though Vacant" is \$96,537 (\$1.90/SF x 50,809 SF).

As previously concluded, the estimated size for the subject right-of-way of Dallas Road is approximately 4,200 SF or 0.096 acres. With a concluded value of \$1.90/SF, we estimate that the subject has a fee simple value, as of October 24, 2019, of \$7,980 (\$1.90/SF x 4,200 SF), which we reconcile to:

---\$8,000---

*** Hypothetical Condition:** This value is subject to the *Hypothetical Condition* (see definition in Addenda) that the area within subject street right-of-way is utilized for private ownership rather than a public street. If the condition does not materialize, the value conclusion of this appraisal could be impacted.

ADDENDA

SUBJECT PHOTOGRAPHS



View along Dallas Road (subject) from Main Street facing northeasterly.



View along Dallas Road (subject) from Church Street facing southwesterly.



View along Dallas Road.



View of First Presbyterian Church of Villa Rica property on northwest side of subject.

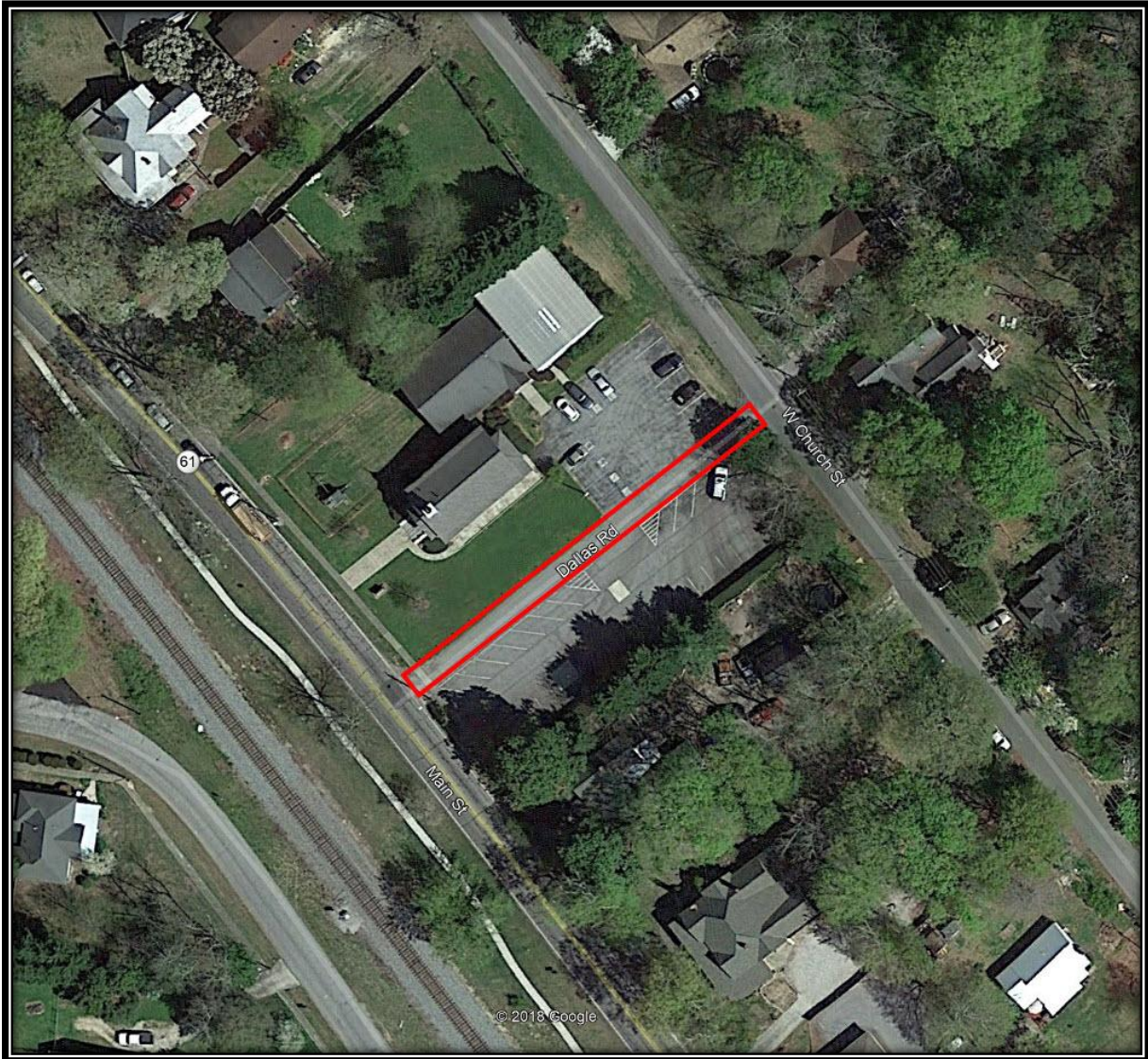


View of First Presbyterian Church of Villa Rica property on southeast side of subject.



Street scene along Main Street facing southeasterly toward downtown Villa Rica. Subject in left of photo.

SUBJECT AERIAL



Approximate property lines are delineated in red.

DEFINITIONS

Market Value is defined by The Office of the Comptroller of the Currency as:

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Fee Simple Estate is defined in The Dictionary of Real Estate Appraisal, Sixth Edition, published by the Appraisal Institute, 2015, as:

"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

Hypothetical Condition is defined in The Dictionary of Real Estate Appraisal, Sixth Edition, published by the Appraisal Institute, 2015, as:

"A condition that is presumed to be true when it is known to be false."

"A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis."

CERTIFICATION OF APPRAISERS

We certify that, to the best of our knowledge and belief,

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board. Further, it is in conformity with the requirements of the *Code of Professional Ethics* of the Appraisal Institute, the *Standards of Professional Appraisal Practice* of the Appraisal Institute, and the *Uniform Standards of Professional Appraisal Practice* as promulgated by The Appraisal Foundation.
- Thomas J. Bass made a personal inspection of the property that is the subject of this report. Hugh B. Bass, Sr., MAI has inspected the subject from the road on multiple occasions, but not specifically for this report.
- No one provided significant real property appraisal assistance to the person(s) signing this certification.
- We have not performed any other services, as an appraiser, or any other capacity, of the subject property within the three years prior to acceptance of this assignment.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Restrictions on Disclosure and Use

Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the Appraisal Institute.

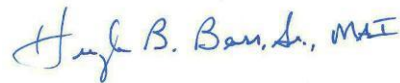
Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected), or any reference to the Appraisal Institute shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval the undersigned.

Education Compliance

The Appraisal Institute conducts a program of continuing education for its designated members. MAIs and SRAs who meet the minimum standard of this program are awarded periodic educational certification.

As of the date of this report Hugh B. Bass, Sr, MAI has completed the continuing education program for Designated Members of the Appraisal Institute and the continuing education program for certification of the State of Georgia Real Estate Appraiser Board.

As of the date of this report, Thomas J. Bass has completed the Standards and Ethics Education Requirements for Practicing Affiliates of the Appraisal Institute and of the continuing education program for certification of the State of Georgia Real Estate Appraisers Board.



Hugh B. Bass, Sr., MAI
Georgia Certified General Real
Property Appraiser No. 435



Thomas J. Bass
Georgia Registered Real
Property Appraiser No. 331743

ASSUMPTIONS AND LIMITING CONDITIONS

The covering letter, certificate of appraiser, and this entire report are made expressly subject to the following conditions and stipulations:

1. Legal descriptions and maps furnished are assumed to be correct.
2. No responsibility for matters legal in character, nor as to title, is assumed by the appraiser.
3. Existing liens and encumbrances have been disregarded, and the property is appraised as though free and clear of any encumbrance.
4. The appraiser has made no survey of the property.
5. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
6. The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since we have no direct evidence relating to this issue, we did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.
7. Information in this report has been carefully checked and is believed to be reliable. The appraiser assumes no responsibility for the accuracy of the information obtained from the owner, from the tenant, from other Realtors, or from other persons believed to be informed.
8. Sketches submitted are believed to be substantially correct; absolute accuracy is not assumed. They are submitted to assist in visualizing the property.
9. If a building(s) is present, unless otherwise noted, the appraiser assumes that the roof, structural components, and mechanical and plumbing systems are in a condition typical

for a building of the age of the subject. A qualified building inspector and/or engineer should be consulted for specific details as to the condition of these elements.

10. Any projections of income and expenses made in this appraisal are not predictions of the future. Rather, they are the best estimates of current market thinking about what future income and expenses will be. No warranty or representation is made that these projections will materialize. The real estate market is constantly fluctuating and changing. It is not the appraiser's task to estimate the conditions of a future real estate market; the appraiser can only reflect what the investment community envisions for the future in terms of rental rates, expenses, and supply and demand.
11. The appraiser has no present or future interest in the property.

COMPETENCY STATEMENT

The Competency Rule of the Uniform Standards of Professional Appraisal Practice states that:

The appraiser must determine, prior to accepting an assignment, that he or she can perform the assignment competently. Competency requires:

1. The ability to properly identify the problem to be addressed: and
2. The knowledge and experience to complete the assignment competently: and
3. Recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

If an appraiser determines he or she is not competent prior to accepting an assignment, the appraiser must:

1. Disclose the lack of knowledge and/or experience to the client before accepting the assignment;
2. Take all steps necessary or appropriate to complete the assignment competently; and
3. Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

The appraiser staff of Bass & Associates has extensive experience in appraising a wide variety of property types including residential, commercial, industrial and special use properties. Please reference the Qualifications of the Appraisers of this assignment provided in the Addenda. We believe we meet the competency requirements to provide a credible appraisal of the subject property.

SUMMARY OF QUALIFICATIONS
Hugh B. Bass, Sr., MAI
Georgia Certified Real Property Appraiser No. 435

EDUCATION:

B.S. Degree in Business Administration, West Georgia College, 1968
Georgia Institute of Real Estate, Real Estate Brokers pre-license course, 1978
Successfully completed the following appraisal courses through the Appraisal Institute:
1. Basic Principles, Methods, and Techniques, Course 1-A, 1978
2. Capitalization Theory and Techniques, Parts 1, 2, and 3, 1983
3. Case Studies in Real Estate Valuation, Course 2-1, 1984
4. Valuation Analysis and Report Writing, Course 2-2, 1984
5. Litigation Valuation, Course 4, 1984
6. Standards of Professional Practice, Parts A and B, 1995
7. Valuation of Conservation Easements, 2013
Completed numerous seminars and continuing education courses.

PROFESSIONAL EXPERIENCE:

Licensed and active in real estate sales and management from 1974 - 1985 (residential, commercial, and acreage sales experience). Currently licensed as a Georgia Real Estate Broker.

Self-employed as an independent fee appraiser since May 1985.

Appraisal work done and accepted for various utilities, banks, attorneys, and individuals to include condemnations, estate valuations, and partitionings. Appraisal work has been done for and accepted by The Georgia Department of Transportation, Oglethorpe Power Corporation, Georgia Transmission Corporation, Georgia Power, Bell South, and various municipalities.

Property types appraised include motels, shopping centers, industrial buildings, offices, special purpose properties, houses, and unimproved land.

Qualified as an expert witness in courts of Bartow, Carroll, Coweta, Douglas, Fayette, Floyd, Fulton, Haralson, and Paulding Counties and in United States Bankruptcy Court Northern District of Georgia in Atlanta and Newnan.

Served as an Assessor in litigation cases in Cherokee, Coweta, DeKalb, Gordon, Gwinnett, Fulton, Paulding and Troup Counties.

Georgia Department of Transportation approved appraiser, Level 4 (highest level).

PROFESSIONAL ORGANIZATIONS:

Organizer and Past President of Tri-Counties West Board of Realtors (n/k/a West Metro Board of Realtors)

Member and Past Director of Carroll County Chamber of Commerce

Member of the Appraisal Institute

MAI - Certificate No. 9416 (designated since May 1992)

Offices held in the Appraisal Institute Atlanta Area Chapter:

Director - 2001 - 2002

Treasurer - 2003

Secretary - 2004

Vice President - 2005

President - 2006

Director - Ex.Officio – 2007 - 2009

Chapter Services Representative, Region IX - 2008-2010

Served on the planning committee for and participated in the Appraisal Institute's annual National Chapter Leadership Training Program (training program for all incoming chapter presidents) – 2009-2012

Participant in the Leadership and Development Council (LDAC); a National Program of the Appraisal Institute held in Washington, DC - 2003 and 2004

Recipient of 2013 Legion of Leaders Award by the AI Atlanta Chapter

STATE OF GEORGIA REAL ESTATE APPRAISERS BOARD

HUGH BOYD BASS, SR

435

IS AUTHORIZED TO TRANSACT BUSINESS IN GEORGIA AS A
CERTIFIED GENERAL REAL PROPERTY APPRAISER

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Vice Chairperson

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56767366

HUGH BOYD BASS, SR

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State of Georgia
Real Estate Commission
Suite 1000 - International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303-1605

ORIGINALLY LICENSED
05/31/1991
END OF RENEWAL
12/31/2019



LYNN DEMPSEY
Real Estate Commissioner

56767366

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END OF RENEWAL
12/31/2019



LYNN DEMPSEY
Real Estate Commissioner

56767366

SUMMARY OF QUALIFICATIONS
Thomas J. Bass
Georgia Registered Real Property Appraiser No. 331743

EDUCATION:

Honor Graduate with distinction from Carrollton High School, 2007.

B.B.A. Degree in Real Estate and Finance, University of West Georgia in May of 2012.

Successfully completed the following appraisal courses through the Georgia MLS Training Institute:

- 1) National USPAP Course, 2007
- 2) Appraisal Qualifying Education Course for Licensure, 2007.
- 3) Introduction to Commercial Appraising, 2009.
- 4) Environmental Issues, 2009.
- 5) 2008-2009 USPAP Update, 2009.
- 6) Income Approach: An Overview, 2010.
- 7) Sales Comparison Approach, 2010.
- 8) 2010-2011 USPAP Update, 2011.
- 9) Appraisal of 2-4 Family & Multi-Family Properties, 2011.
- 10) Real Estate Math, 2012

Successfully completed the following appraisal courses through the Appraisal Institute:

- 1) Basic Appraisal Procedures, 2013
- 2) Basic Appraisal Principles, 2013
- 3) Conservation Easements & Your Taxes, 2012
- 4) 2012-2013 USPAP Update, 2013
- 5) Real Estate Finance, Statistics, and Valuation Modeling, 2014
- 6) Business Practices and Ethics, 2014
- 7) 2014-2015 USPAP Update, 2015
- 8) General Appraiser Sales Comparison Approach, 2016
- 9) General Appraiser Site Valuation and Cost Approach, 2016
- 10) General Appraiser Income Approach, Part 1, 2016
- 11) Condemnation Appraising: Principles and Applications, 2017
- 12) General Appraiser Income Approach, Part 2, 2017
- 13) 2016-2017 USPAP Update, 2017
- 14) Litigation Appraising: Specialized Topics and Applications, 2018
- 15) Advanced Income Capitalization, 2018
- 16) General Appraiser Report Writing and Case Studies, 2019

PROFESSIONAL EXPERIENCE:

Employed by Bass & Associates, May 2006 – Present. Initial duties were primarily as a research assistant, becoming an associate appraiser in June 2012.

STATE OF GEORGIA REAL ESTATE APPRAISERS BOARD

THOMAS JOSEPH BASS

331743

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D. SCOTT MURPHY
Chairperson

JEFF A. LAWSON
Vice Chairperson

JEANMARIE HOLMES
WILLIAM A. MURRAY
KEITH STONE

52771110

THOMAS JOSEPH BASS

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04/02/2008
END OF RENEWAL
10/31/2020



LYNN DEMPSEY
Real Estate Commissioner

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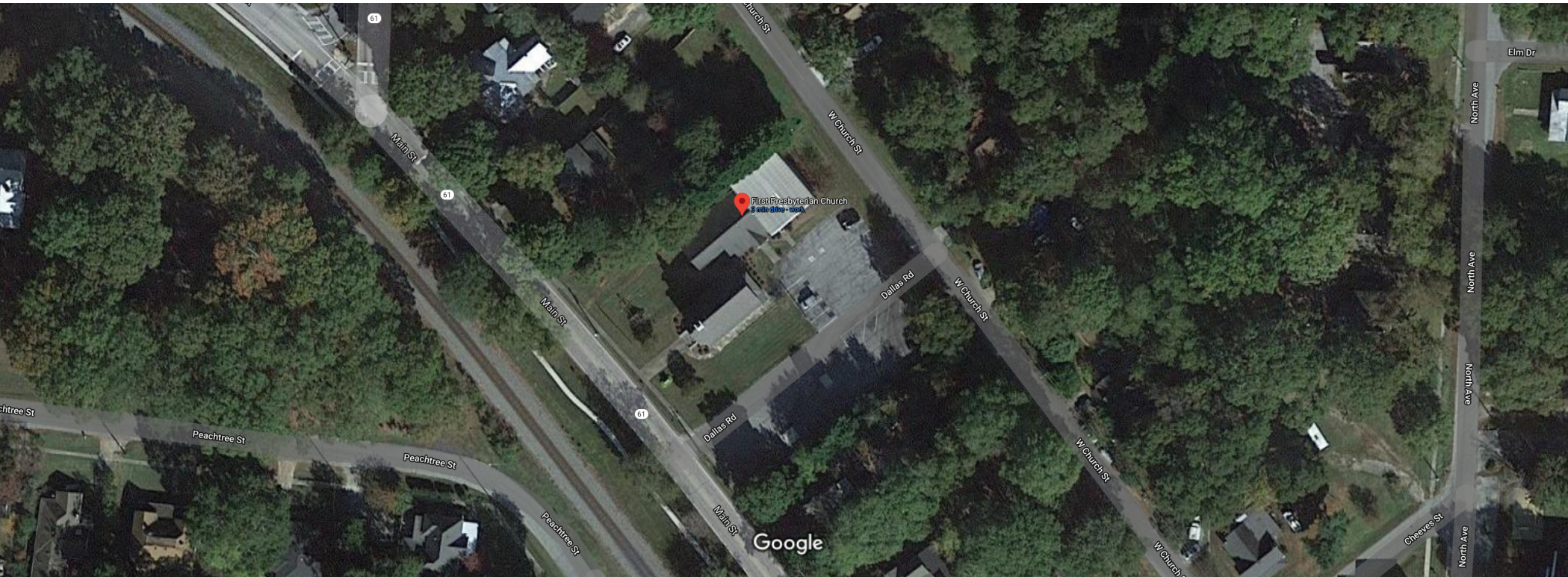
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04/02/2008
END OF RENEWAL
10/31/2020



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Real Estate Commissioner

52771110



Imagery ©2020 Maxar Technologies, U.S. Geological Survey, Map data ©2020 50 ft



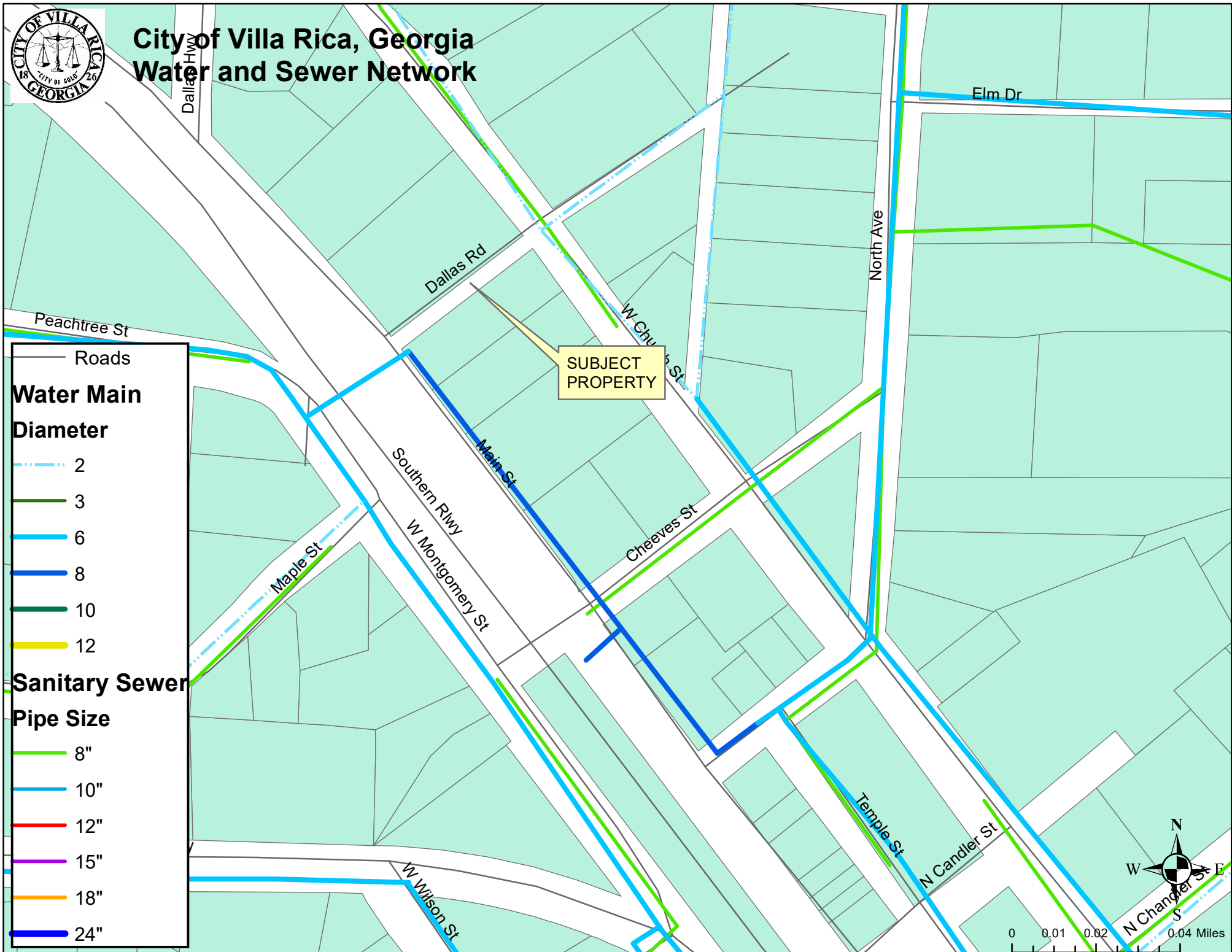
First Presbyterian Church

4.8 ★ ★ ★ ★ ★ (5)
Presbyterian church

-  Directions
-  Save
-  Nearby
-  Send to your phone
-  Share



City of Villa Rica, Georgia Water and Sewer Network



— Roads

Water Main

Diameter

- 2
- 3
- 6
- 8
- 10
- 12

Sanitary Sewer

Pipe Size

- 8"
- 10"
- 12"
- 15"
- 18"
- 24"

SUBJECT
PROPERTY





Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Temporary Road Closure Request for Walton Communities on Old Stone Road between Walnut Drive and Hwy 61 for Construction Purposes.

AGENDA DATE: October 13, 2020

DATE PREPARED: October 1, 2020

PREPARED BY: Bobby C. Elliott, P.E.

AMOUNT: N/A

GL ACCOUNT #: N/A

FUNDING SOURCE: N/A

BUDGETED ITEM? N/A

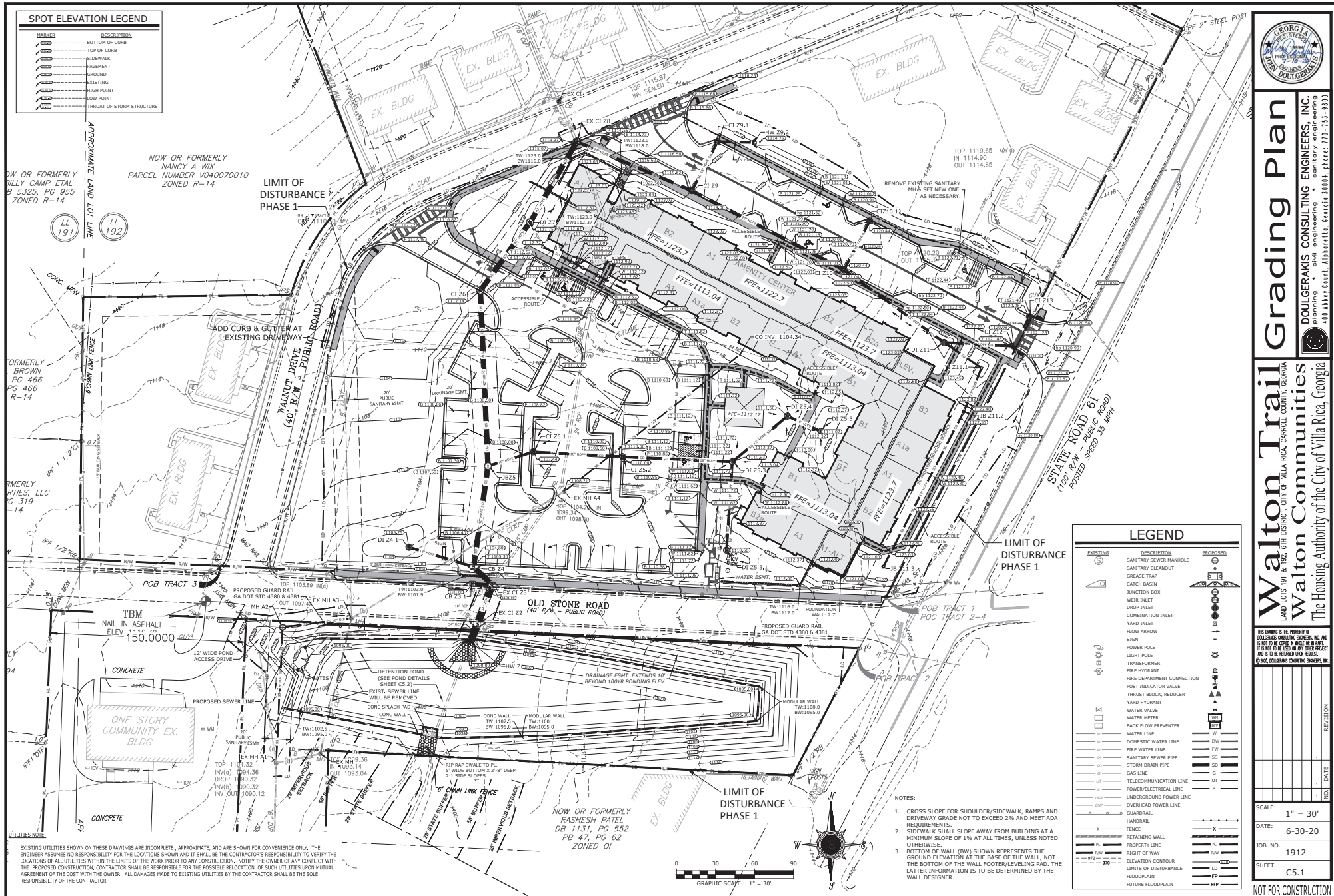
PURPOSE: The purpose of this agenda item is to request permission to close Old Stone Road between Walnut Drive and Hwy 61. This request is for a temporary closure for 180 days.

BACKGROUND: Due to the construction of the detention pond and some large storm piping associated with the pond, it will be impossible to keep the short stretch of Old Stone Road open during this construction. Once the construction in this area is completed, the road will be re-opened to traffic.

STAFF RECOMMENDATION: Staff recommends approval of this request.

IMPACT: Police along with 911 and the School System must be notified of the closure at least two weeks before implementing.

MOTION: I make a motion that a temporary road closure on Old Stone Road between Walnut Drive and Hwy 61 be granted to Walton Communities for a maximum of 180 days due to site construction involving the detention pond and storm piping.



Grading Plan

Walton Trail
AND LOTS 191 & 192, 6TH DISTRICT, CITY OF VILLA RICA, CARROLL COUNTY, GEORGIA
Walton Communities
The Housing Authority of the City of Villa Rica, Georgia

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NOT FOR CONSTRUCTION



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Change in Payroll Provider
AGENDA DATE: 10/13/2020

DATE PREPARED: 09/22/2020
PREPARED BY: Stephanie Rooks

AMOUNT: \$56,098.00
GL ACCOUNT #: 100540521200,1001540521230
FUNDING SOURCE: General Fund
BUDGETED ITEM? Yes

PURPOSE: To present for approval the purchase of Paycom to serve as a new fully integrated Applicant Tracking, Payroll, Learning Management, Performance Management, and Human Resource Information System to further streamline HR transactional processes.

BACKGROUND:

Currently we use THREAD as our payroll and human resources information system (HRIS) provider, along with NeoGov for performance and learning management systems, at a total annual cost of \$55,183.00

The systems that we are currently using are rather cumbersome and not easy to use from an employee perspective. We have reviewed three Applicant Tracking Payroll, HRIS, LMS and Performance Management Systems.

The systems considered were Paycom, Paylocity and NeoGov and Paychex. After an in-depth demonstration from each vendor, Paylocity and NeoGov Systems were shown to be cumbersome and difficult to navigate. Paychex was not the integrated system that we would be getting with Paycom.

After reviewing the three systems, it was determined that Paycom would be easier to use from the employee perspective with enhanced functionality for the system administrators and employees. Paycom is a fully integrated and intuitive system that combines an Applicant Tracking, HRIS, Payroll, LMS and Performance Management Systems in to one database. Reducing the likelihood of data entry errors due to the fact employees manage their personal data. Paycom allows managers to input personnel action requests which are electronically routed through electronic approval process saving time and costs associated with paper transactions. Paycom also has the capability of electronic record keeping, reducing costs associated paper filing.

STAFF RECOMMENDATION: Staff recommends Paycom for our new payroll/HRIS system.

IMPACT: Streamlines HR transactional processes, provides a dashboard for employees on their smart phones, reduces overall costs and spending on HR systems.

MOTION: Make a motion to allow the City Manager to sign the service agreements with Paycom, not to exceed \$56,098.00 for the first year and \$50,198.00 for subsequent years.

	Implementation	Yearly Expense	Total First Year	Ongoing Cost (after first year)
Current System(s)				
Thread - <i>ATS, Payroll, HRIS</i>		\$ 36,300.00	\$ 36,300.00	\$ 36,300.00
NeoGov - <i>Performance and Learning</i>		\$ 18,883.00	\$ 18,883.00	\$ 18,883.00
			\$ 55,183.00	\$ 55,183.00
Proposed System				
Paycom				
<i>ATS, Payroll, HRIS, Performance and Learning</i>	\$ 5,400.00	\$ 50,198.00	\$ 55,598.00	\$ 50,198.00
Comparison				
Paylocity	\$ 3,745.00	\$ 41,100.00	\$ 44,845.00	\$ 41,100.00
<i>ATS, Payroll, HRIS, Performance and Learning</i>				
NeoGov	\$ 8,500.00	\$ 64,834.00	\$ 73,334.00	\$ 64,834.00
<i>ATS, Payroll, HRIS, Performance and Learning</i>				
Paychex - quote does not include LMS or Performance Management				
<i>HRM, Payroll, ATS, Benefits,</i>	\$ 900.00	\$ 46,256.08	\$ 47,156.08	\$ 46,256.08

Cost compariston with current systems

Year One

\$ (415.00) Due to the implementation and set up fees.

Year two and beyond

\$ 4,985.00 Savings each year beginning in year two.

Functionality						
System Administrator Experience	Applicant Experience	Employee Experience	Paperwork Reduction	Operational Control	Data Entry Error Risk	Training
B	C	D	D	B	C	
						none
D		D	D	D	D	required
A	A	A	A	A	A	On Site
C	C	D	C	D	D	Virtual
D	D	D	D	D	D	Virtual

\$ (415.00) Due to the implementation and set up fees.

Created on 08/04/2020. Valid For 30 Days.

Client Signature
Printed Name

Title
Date

Human Capital Management Solution

Solution	Base	Per Pay	Per Payroll Fee		
Single Application HCM System			Included		
Dedicated Paycom Specialist			Included		
Analytics Dashboard			Included		
Applicant Tracking			Included		
E-Verify			Included		
New Hire Reporting			Included		
Employee Self Service			Included		
Document & Task Management			Included		
Time and Attendance			Included		
Time Off Accrual Tracking			Included		
Time Off Requests			Included		
Payroll Processing			Included		
- Check Vouchers			Included		
- Federal Electronic Tax Depositing (941,940)			Included		
- Deposit and File State Tax Deposits			Included		
- Deposit and File SUTA (State Unemployment)			Included		
- Quarterly Federal/State Deposit Statements			Included		
- Quarterly 941s Signed and Filed			Included		
- Jurisdiction Filing (\$6 per additional Jurisdiction)	Jurisdictions: 1		\$ -		
General Ledger Concierge			Included		
Paycom Pay			Included		
Workers Comp Tracking			Included		
401(k) Standard Report			Included		
Benefits Administration			Included		
Enhanced Affordable Care Act			Included		
Government & Compliance			Included		
Paycom Learning			Included		
Performance & Compensation			Included		
Personnel Action Forms			Included		
Total	170	\$ 126.39	\$ 10.57	\$ 1,923.29	

Pay-Per-Use					
Solution	Quantity	Base	Per Pay	Per Payroll Fee	
Direct Deposits	0	\$ 7.52	\$ 0.27	\$ -	
Full Garnishments	0	\$ -	\$ 10.00	\$ -	
Total				\$ 0.00	

Grand Total Per Payroll	\$ 1,923.29
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One-Time Conversion, Set-Up and Training				
Solution	Option	Quantity	Per Unit Charge	Fee



One-Time Conversion, Set-Up and Training				
Solution	Option	Quantity	Per Unit Charge	Fee
Client Conversion	Included			\$ 5,400.00
Training	Included			Included
Paycom Learning	Included	1	\$ 500.00	\$ 500.00
Total Initial Investment				\$ 5,900.00

Annually		
Solution	Option	Annual Fee
940 Filed	Included	Included
2020 W-3 Transmittal	Included	\$ 75.00
2020 Employee/Employer W-2s	Included	Per W-2 \$ 6.95
2020 ACA Form 1094 (B or C)	Included	\$ 75.00
2020 ACA Form 1095 (B or C)	Included	Per 1095 Form \$ 6.95

All Pricing is subject to change with written or electronic notice.Note: Delivery fee will be based on actual delivery costs. Additional processing fees may apply.

All applicable taxes, including but not limited to sales or service taxes, are not included in the above proposal (unless specified otherwise). Client is responsible for applicable taxes in addition to the fees outlined in the proposal. Applicable taxes may vary by jurisdiction.

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COMMITMENT TO SUCCESS

Client Name: **City of Villa Rica**

Welcome, and thank you for partnering with Paycom. We want to ensure you achieve maximum workforce efficiency and enjoy the healthiest-possible bottom line. Both of these are possible when employee usage of Paycom is at 100%.

Companywide usage of HR technology benefits everyone in the organization.

- Having 24/7 access to their HR data empowers **employees** to take responsibility for its accuracy.
- Free of that administrative burden, **HR executives** enjoy fewer interruptions and more time to invest in talent management and strategic initiatives.
- **The C-suite** values the increases in productivity, engagement, retention, profits and overall ROI.

Achieving these benefits requires three things from you:

1. **Commit** to a goal of 100% employee usage.
2. **Share** your commitment with your employees.
3. **Mandate** their buy-in.

We're committed to helping you every step of the way including providing the tools and training necessary that lead your workforce to 100% usage. The greatest way to show *your* commitment to the digital transformation is by signing this pledge.

Client Signature

Date

Sales Representative Signature

Date



General Terms and Conditions

Capitalized words in these general terms and conditions (the “General Terms and Conditions”) that are not otherwise defined herein shall have the same meaning given in the PHCMSA. Paycom and the Client agree as follows with respect to the Services. Paycom and Client are referred to herein collectively as the “Parties” and each individually as a “Party.”

1. Paycom’s Obligations. Paycom shall perform the Services in accordance with the Agreement.

2. Paycom Representations and Warranties. Paycom represents and warrants to Client that:

2.1. Paycom shall, upon written request, provide Client with a copy of its most recent Service Organization Control 1 Report for Description of Paycom Software, Inc.’s Payroll Processing System (the “SOC-1 Report”). Paycom shall maintain controls on its payroll processing systems at a similar level to continue to achieve the control objectives described in the SOC-1 Report and it shall make any such future reports or similar industry audit reports available to Client upon Client’s request.

2.2. Paycom currently maintains certification for ISO 27001:2013 which governs its physical and technical security controls. Paycom shall maintain controls on its physical and technical security systems at a similar level to continue to achieve the control objectives of ISO 27001:2013.

2.3. Paycom shall comply with all applicable Federal, State, and Local laws, rules, and regulations.

2.4. Except as otherwise expressly stated herein, Paycom makes no other representations and warranties.

3. As Is, Disclaimers. THE SERVICES PROVIDED BY PAYCOM PURSUANT TO THE AGREEMENT ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. EXCEPT AS EXPRESSLY STATED HEREIN, TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, PAYCOM DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SYSTEM INTEGRATION, AND NONINFRINGEMENT.

4. Paycom’s Intellectual Property. Paycom grants Client a non-exclusive, non-transferable license, exercisable solely during the term of the Agreement, to use applicable Paycom technology solely for the purpose of accessing and using the Services. Client shall have no right to use the Paycom technology for any purpose other than accessing and using the Services. Except for the rights expressly granted above, the Agreement does not transfer from Paycom to Client any rights to the Paycom technology (or Paycom’s licensor’s technology), and all rights, titles and interests in and to any Paycom technology shall remain solely with Paycom. Client shall not, directly or indirectly, reverse

engineer, decompile, disassemble or otherwise attempt to derive source code or any other intellectual property and/or proprietary information from any of the Paycom technology. Client acknowledges and agrees that Paycom’s trademarks, tradenames, service marks, logos, other names and marks, and related product and service names, design marks, and slogans are the sole and exclusive property of Paycom. Client is not authorized to and shall not use any of Paycom’s trademarks, tradenames, service marks, logos, other names and/or marks, and/or related product and service names, design marks, and/or slogans in any advertising, publicity, or in any other manner without the prior written consent of Paycom.

Paycom represents and warrants to Client that all products, code, documentation, or other materials that it or its employees provides to Client or uses in the process of providing Services to Client will be Paycom’s original works or duly licensed works that Paycom has all right, title, and interest necessary to provide or use such products, code, documentation, or other materials and that Paycom will not infringe the intellectual property rights of any third party in the performance of Paycom’s services.

Paycom promises to defend, indemnify and hold Client and its affiliates, and their respective employees and agents harmless from any and all demands, claims, damages or liability arising out of or related to any claims that Paycom has infringed the intellectual property rights of a third party in the performance of the services provided by Paycom.

5. Paycom’s Indemnity Obligation. Subject to the terms and conditions of the Agreement, including the limitations of liability and exclusion of certain types of damages provided for herein, Paycom shall indemnify, defend and hold Client and its affiliates, and their respective employees and agents harmless from any and all liabilities, demands, actions, claims, judgments, losses, damages, and costs (including reasonable attorneys’ fees) arising out of or related to: Paycom’s or Paycom’s employee’s gross negligence or willful misconduct. Paycom shall pay any penalties and/or interest to any Federal, State or Local governmental and/or quasi-governmental authorities (collectively “Taxing Authorities”) as a result of untimely or incorrect tax filings but only to the extent the penalties and interest were caused by Paycom.

6. Reliance on Client’s Information. Paycom’s Services are based upon information and instructions provided by Client. Client is solely responsible for the accuracy and completeness of all information and instructions provided to Paycom. Notwithstanding anything to the contrary in the Agreement, Paycom shall not be liable or responsible for errors or omissions arising from Paycom’s reliance upon Client’s instructions or incorrect or incomplete information provided by Client or if applicable, a third party providing information regarding Client.

Paycom shall not be required to amend or refile any tax return or tax filing on behalf of Client unless the erroneous filing was the sole fault of Paycom. Paycom is not responsible for settling any disputes between Client and Client's employees, or Client and any Taxing Authorities, or Client and any other regulatory bodies.

In the event Client instructs and directs Paycom to not prepare or file on its behalf Client's IRS 1095-B, 1095-C, 1094-B, and 1094-C forms; or those IRS forms' subsequent substitutes or functional equivalents, as indicated in the Agreement, Client agrees that Paycom shall not be responsible for any liabilities arising as a result of Paycom's acts or omissions in furtherance of these instructions, including but not limited to any IRS penalties associated with, to the extent Client is required to do so, Client's failure to file IRS 1095-B, 1095-C, 1094-B, and 1094-C. Unless prohibited by law, Client hereby releases Paycom from any and all claims, causes of action or demands, whether sounding in contract or tort, arising out of Paycom's failure to file IRS 1095-B, 1095-C, 1094-B, and 1094-C forms, including without limitation, any penalties or interest resulting therefrom.

7. Client's Registration Obligations. Client is solely responsible for being properly registered with all applicable Taxing Authorities and for obtaining any tax identification numbers and/or account numbers with applicable Taxing Authorities. Client shall timely provide Paycom with all account numbers issued by Taxing Authorities to Client, whether active or inactive.

8. Term and Termination. The Agreement shall continue in full force and effect until terminated by either Party. Unless otherwise specifically agreed upon in writing, Paycom and Client each shall have the right for any reason or no reason at all to terminate the Agreement upon providing the other Party with thirty (30) calendar days' prior written or electronic notice of termination. In addition to the preceding termination rights, Paycom shall have the right to immediately terminate the Agreement in the event: (i) Client materially breaches its obligations to Paycom; (ii) Client fails to pay or remit any sums due within two (2) business days after the due date; (iii) Client fails to remit to Paycom all funds related to the Services and such failure is not cured within one (1) business day after notification from Paycom; (iv) Client discontinues its use of Paycom's Services for three or more consecutive pay periods; (v) Client asserts, files or threatens any bankruptcy or Client asserts, files or threatens adverse action against Paycom; (vi) Client fails to timely remit to Paycom the funds required to perform the Services more than one time in any twelve-month period; (vii) any one of Client's affiliated client code entities is in default of its obligations to Paycom; or (viii) Paycom's depository or financial institutions notify Paycom that Paycom may no longer

service the Client due to Client's creditworthiness, Client's business reputation or the nature of Client's business activities. In addition to the preceding termination rights, in the event: (i) Paycom materially breaches its obligations to Client or (ii) Paycom asserts or files any bankruptcy or adverse action against Client; then Client shall have the right to immediately terminate this Agreement. Upon termination of the Agreement in whole or in part (and after expiration of any applicable notice periods), Paycom shall have no further obligation to perform the obligations set forth in the Agreement, or, to the extent such termination was partial, Paycom shall have no further obligation to perform the obligations of the applicable Service component that has been terminated. Further, upon termination of Services relating to payroll processing, Client will immediately become responsible for all payroll tax deposits and filings then and thereafter due and for all related penalties and interest, and whereupon Paycom shall promptly return to Client any excess monies in Paycom's possession (if any) that are not reasonably subject to potential reversal, return, setoff or recoupment. In the event any monies credited or debited by Paycom and/or in Paycom's possession are subject to potential reversal, return, setoff or recoupment, then Paycom shall have the right to hold said funds during the time period of potential reversal, return, setoff or recoupment and thereafter shall promptly return all remaining funds to Client after the applicable time period has expired. During any time period in which Client is in default of its obligations to Paycom, Paycom shall have the right to suspend the provision of its Services to Client, in whole or in part, pending Client's compliance with the Agreement or pending termination of the Agreement. In the event Paycom or Client provides a notice of termination pursuant to this Section 8, then Client shall have access to all Paycom's prior payroll information in the Website Account for ten (10) calendar days after Client's last payroll with Paycom. Regardless of the effective date of termination, if any Website Account access is granted after ten (10) days from Client's last check date, Client shall incur an additional fee. During any time period in which a demand is made upon Paycom by Client's lender(s), Client's judgment creditor(s), or Client's financial institution(s) seeking turnover of any of Client's funds, Paycom shall have the right to suspend the provision of its Services to Client, in whole or in part, subject to any or all of the following: (i) receipt of a written release from such persons or their demands (and, if applicable, confirmation that such release has been submitted to the appropriate persons or recording systems), (ii) termination of the Agreement, or (iii) pending interpleader of disputed funds into escrow. In the event a Party terminates the payroll processing Services, then all other Services performed by Paycom shall be terminable, at Paycom's option.

9. NACHA Compliance. The Services provided by Paycom may be subject to the operating rules of the National Automated Clearinghouse Association ("NACHA"). Paycom and Client

each agree to comply with the NACHA rules applicable to it with respect to the Services. Information pertaining to NACHA rules and guidelines can be found at www.nacha.org. Pursuant to the NACHA Rules, Client agrees and authorizes the following (terms not otherwise defined in this paragraph shall have the meaning given in the NACHA operating rules): (1) for Paycom to originate entries on behalf of the Client to Receivers' accounts; (2) to be bound by NACHA rules; (3) to not originate any entries or transactions that violate the laws of the United States; (4) to allow Paycom to originate entries or transactions related to payroll, tax liabilities, human capital management service fees and processing charges; (5) the right of Paycom to terminate or suspend this Agreement for breach of these rules; and (6) to allow Paycom to audit Client's compliance with this Agreement and these rules. Client hereby authorizes Client's banks and Paycom's banks (collectively, "representatives") to transfer funds from Client's account at Client's bank to the accounts of Paycom for payroll, tax liabilities and processing charges. Client represents and warrants that this authorization has been duly approved by its Board of Directors, Members, Managers or other governing persons and continues in full force and effect. The representatives may issue payment orders in the name of the Client against the accounts of Client's bank, subject to Client's bank's acceptance. Payment orders issued on behalf of Client pursuant to this Agreement may be issued by Fedwire Request for Credit Transfer (1031) or electronic entries in accordance with the rules of NACHA, on the days and times and in the formats prescribed by Client's Bank. Client's bank shall debit Client's account for the amount of each payment order issued pursuant to this Agreement on the date such order is executed by Client's bank. Client's instructions to Paycom and Client's use of Paycom's services shall not violate the NACHA rules or the laws of the United States. Neither Paycom nor any Originating Bank shall be liable to Client for any damages arising from any decision to refrain from or delay originating debit/credit entries with respect to Client's payroll: (1) due to Client's creditworthiness or Client's business activities; (2) after reasonable efforts to verify such entries have failed; or (3) because Paycom has not timely received funds from Client.

10. No Professional Advice. The Services provided by Paycom expressly do not include the rendering of legal, tax, accounting, or investment advice to Client or Client's employees. The federal government, tribal governments, state governments or localities each may impose specific obligations pertaining to employee wage requirements, industry requirements, printed paystubs, or other matters. It remains Client's exclusive obligation to comply with applicable laws, rules, and regulations pertaining to Client and its employees. Additionally, Client shall adopt its own effective internal controls concerning its payroll. The Services should not, will not, and cannot be relied upon to detect or disclose errors, fraud or illegal acts of Client or Client's employees, subcontractors, or agents. Paycom is not and

shall not act as an agent of Client for receipt of service of legal process. Paycom shall have no obligation to accept, receive or forward Client's legal process, including summons, subpoenas, complaints, injunctions, or other legal process.

11. Required Manner of Notices. Paycom maintains a secure website ("Website Account") through which Client may access information and through which Client shall request transactions electronically. Client's use of the Website Account is required. Except as may otherwise be expressly permitted in a Schedule, all notices required to be provided to Paycom shall be made in specific accordance with these General Terms and Conditions and/or through data entry on the Website Account, including but not limited to Client's data entry of payrolls, new employees, contact information for employees, and all other information permitted to be entered through the Website Account. Paycom shall not be required to rely upon any information provided by the Client to Paycom unless the information has been provided to Paycom in the manner expressly provided for herein. Paycom will not be required to rely upon any information provided via telephone or any means other than as specifically set forth herein.

12. Client's Indemnity Obligation. Notwithstanding anything to the contrary herein, Client understands that all Services rendered by Paycom are based upon the information furnished by the Client. Unless prohibited by law, Client shall indemnify, defend and hold Paycom and its affiliates, and their respective employees and agents harmless from any and all liabilities, demands, actions, claims, judgments, losses, damages, and costs (including reasonable attorneys' fees) arising out of or related to the following or any combination of the following: (i) Client's breach of any obligation, representation, or warranty under the Agreement; (ii) any claim, demand, cause of action, or allegation that Client violated any applicable law, rule, or regulation; (iii) any failure on the Client's part to fund any payment obligation of Client; (iv) any debit or reversal of payments previously made to Client's employees or others as a result of Client's failure to fund or pay its obligations; (v) any breach of Client's Security Information (as defined in Section 16); (vi) Client's negligence or willful misconduct; (vii) Paycom's acts or omissions in furtherance of Client's instructions; (viii) the use of inaccurate information provided by the Client; and (ix) Client or any third party's use of reports or data from the Data Services (as defined in Section 19).

13. Client Representations and Warranties. Client represents and warrants that:

13.1. Client shall not use the Services for any illegal purpose, such as but not limited to, terrorism or money laundering or otherwise cause a transaction that will require the filing of a Suspicious Activity Report pursuant to the rules and regulations issued by the Financial Crimes Enforcement Network.

13.2. Client does not and shall not appear on any terrorism watch list, OFAC list, or similar list maintained by the U.S. Government.

13.3. Client, including any applicable affiliated entities, is not involved in a business or industry that violates federal law, including, but not limited to the Controlled Substances Act and The Money Laundering Control Act.

13.4. Client shall comply with all applicable laws, rules, and regulations, and shall not violate the laws of the United States.

13.5. Client is solely responsible, with regard to any transfer of personal information to Paycom, for the legality and the means by which Paycom acquired such personal information, including when required by applicable law, rule, or regulation, obtaining consent for the collection, transfer and/or use of such information.

13.6. Client shall not upload to Paycom's system through the Website Account, Data Services (as defined in Section 19), or in any other manner, any documents, information, or materials that are not related to the Services provided.

13.7. Client's use of the Services is for a commercial purpose and specifically not for any personal, family, or household purpose.

13.8. Client shall not transmit individual health information to Paycom. Notwithstanding anything to the contrary herein, the Agreement does not anticipate transmittal of or otherwise apply to individual health information that is protected under any privacy and/or security regulations implemented by the Department of Health and Human Services pursuant to its authority under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), or the like.

13.9. Client shall implement reasonable technical and organizational measures to protect Client's data and Paycom's system against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure, or access.

14. Fees and Charges. Paycom's fees and charges shall be consistent with the final written pricing proposal provided to Client. Paycom's pricing structure and pricing to Client is confidential and shall be treated by Client as confidential. Client agrees to pay, at regular intervals, Paycom's applicable fees and charges for the Services. In the event Client chooses to group its billing together with affiliated client code entities (together, a "Multiple Client Code"), Client and each of Client's affiliated client code entities of the Multiple Client Code will be billed for all products available to the Multiple Client Code. Client and/or Client's affiliated client code entities may be charged an additional fee if any such entity utilizes the Website Account for employees that are not paid on regularly scheduled payrolls processed via the Website Account. Paycom's pricing may be amended from time to time upon prior written or electronic notice to the Client. In the event Client does not consent to

Paycom's revised pricing, Client shall have the right to terminate the Agreement by providing Paycom with written notice of termination within fifteen days of Paycom's first communication to Client of the pricing change. As additional consideration for Paycom's provision of Services to Client, Client assigns to Paycom or Paycom's financial institutions or depositories any benefits derived on the funds maintained in Paycom's client accounts (i.e. any interest or investment income on funds deposited into and held in Paycom's accounts).

15. Payment. To facilitate the payment of the fees, charges, or other amounts due or payable to Paycom under the Agreement, Client will provide Paycom with access to a Client bank account and will notify Paycom of the demand deposit account number and transit routing number for the account. Client irrevocably consents to Paycom's use of Paycom's Client account information and Website Account access for purposes of electronically drawing funds from Client's bank account in accordance with Client's obligations set forth in the Agreement. Client hereby authorizes Paycom to process wires, drawdown wires, and/or ACH debits or credits in connection with the monies (including Paycom's compensation and fees) applicable to the Agreement. Paycom fees for any and all services provided by Paycom may be debited and/or charged at intervals consistent with and together with Paycom's payroll processing for Client.

16. Access Restrictions. Maintaining the confidentiality of Client's client code, user name, password, access keys, and/or other account access information (collectively "Security Information") is the sole responsibility of Client. A person with knowledge of Client's Security Information will be able to access Client's account and initiate transactions and funds transfers on behalf of Client. If an unauthorized person obtains access to Client's Security Information and initiates transactions, Paycom cannot protect Client from the result of any such transactions. Paycom shall rely upon any and all instructions and directions provided using the Client's Security Information. Client agrees:

16.1. Client will not disclose its Security Information to anyone not authorized to request transactions on Client's behalf;

16.2. Client will undertake its own commercially reasonable security measures to prevent the disclosure and/or unauthorized use of its Security Information;

16.3. Client shall, at regular intervals, follow the procedures within the Website Account interface to update and/or revise its Security Information;

16.4. Client may modify its Security Information as many times as Client deems appropriate. If Client suspects that someone has access to Client's Security Information, Client shall immediately make revisions to its Security Information; immediately review all recent and pending transactions, and

immediately notify Paycom of its suspicions concerning a potential breach of Client's Security Information.

16.5. Neither Paycom, nor its agents or affiliates shall be liable for any loss, claim, or circumstance in connection with instructions given by Client or anyone else using Client's Security Information. Paycom shall have the absolute right to rely upon all instructions given to Paycom using Client's Security Information.

17. Security Features. Paycom employs various security features to enhance security and limit access to the Website Account. Client is responsible for adopting its own effective internal controls concerning its payroll, funds, security, and use of the Website Account. Paycom's services should not be relied upon to detect or disclose errors, fraud, or illegal acts of Client's employees or third parties, however Paycom's security features may assist Client in mitigating its risks concerning such matters. To the extent Client elects to disable or discontinue the use of certain security features offered by Paycom (including email notifications, IP address verification, masking informational fields, or other features), Client assumes full responsibility arising out of Client's non-use or disabling of any such security feature(s). Paycom disclaims any and all responsibility arising from Client's disabling or non-use of any Paycom security feature. Unless prohibited by law, Client does hereby release and forever discharge Paycom from any and all demands, claims, and liabilities of whatever kind or nature, either in law or equity, whether known or unknown, which arise or may hereafter arise from Client's disabling or non-use of any Paycom security feature. Client has the option of reactivating any disabled feature at any time.

18. Internet Access. The Website Account will be accessible from the internet. Client shall be responsible for accessing the internet to utilize the Services and access the Website Account. Paycom does not warrant and shall not be responsible for the cost and maintenance of any telephone, cable internet provider, cellular network, wireless local area network, wireless tower, application distribution system, or other communication circuits required for dutiful transmission and system access. Data files are transmitted over communication company circuits, which are wholly beyond the control and jurisdiction of Paycom and are maintained by the applicable communications companies. If these communication circuits are not functional for any reason, the data files may not accurately or completely reach Paycom's facilities or equipment. Paycom is not responsible for or in control of the continued operations or functioning of these communication circuits nor the reliability of the data files being received over them. Client shall not hold Paycom responsible in any way for any losses of any kind whatsoever resulting from the failure of any communication circuits or internet service provider to fully and properly perform, whether the failure of the communications are caused by any provider, whether Client's

provider, Paycom's provider, Client's user's providers, Client's employee-user's providers, or any other provider. In the event of interruption of access to the Website Account, Paycom's sole obligation and liability shall be to restore access to the Website Account as soon as reasonably possible. Paycom makes no other warranties, express or implied, with respect to the subject Services or the Website Account and/or the availability of the Website Account.

19. Data Services. As a part of providing Paycom's application program interface ("API") and secure file transfer protocol ("SFTP") or Custom File Converter services (collectively, "Data Services"), Paycom may generate, create, and/or facilitate the creation of certain reports; allow access by Client and/or third parties to certain Website Account and third party data feeds; create or connect Client and/or third party data feeds to the Website Account; create data feed protocols to convert and facilitate the communication of data between Client's and/or third parties' systems and the Website Account; setup and automate scheduled data feed imports and transmissions; and import and transmit data. Certain Data Services are governed by their own Schedules, which shall supersede these General Terms and Conditions to the extent there is a conflict between these General Terms and Conditions and the specific Service component Schedule. Certain Data Services (for example, API services and SFTP services) may require the use of an access key to gain access to Client data. These access keys are the sole property of Paycom and may be revoked at Paycom's discretion without notice to Client if Client violates any of the terms herein or Paycom has reason to suspect the access keys have been misused or compromised. The number of API calls or SFTP requests Client is permitted to make may be limited by Paycom as necessary to best provide quality of response. Client is permitted to use the API or SFTP interface to access Client data maintained on the Website Account and to interface with other systems in Client's organization as necessary in the ordinary course of business. Client may work with third parties only as necessary to facilitate Client's API usage, so long as such third parties are subject to the obligations imposed on Client herein. Client shall not:

- (i) use the access keys, or any of the Data Services to attempt to gain access to other data on Paycom's system, or for any other purpose not expressly authorized herein;
- (ii) resell applications or services that require the Data Services;
- (iii) sell, transfer, or sublicense access to the Website Account or the Data Services;
- (iv) commercialize (sell, rent, trade or lease) the content provided via the Website Account or the Data Services;
- (v) decompile, modify, reverse engineer, create derivative works, or otherwise alter the Website Account or Data Services;
- (vi) distribute or publish links to the Website Account or Data Services;

- (vii) use robots, spiders, scraping, or other technology to access or use the Website Account, Data Services, or any of Paycom's systems;
- (viii) access or attempt to access the account information of other users, or any other unauthorized information;
- (ix) use the Data Services in a manner that violates any applicable laws or regulations, including but not limited to those related to privacy and data protection;
- (x) use the Data Services interface in a manner that exceeds reasonable request volume or could be considered excessive or abusive usage; or
- (xi) distribute or publish automation documentation, including but not limited to, API and SFTP documentation, file import formats, or file export formats (the "Documentation") to third parties.

Paycom does not, by allowing Client to use or access the Website Account and Data Services, transfer any rights or ownership in the Website Account or Data Services, Documentation, source code, or Paycom intellectual property. The Website Account and Data Services are and shall at all times remain the property of Paycom and Paycom alone. Paycom may update the structure of the classes, functions, reports, or data provided by the Website Account and Data Services. Paycom may also update the associated Documentation or the permitted uses of the Services at any time and without notice to Client. Client acknowledges and accepts that the provision of these Data Services may result in Client's data being stored, transmitted, accessible, and handled in a manner that does not conform to the data security protocols described herein. Paycom makes no warranty or representation as to the sufficiency or adequacy of such nonconforming protocols. Client and such applicable third parties shall be exclusively responsible for adopting their own effective controls concerning access to Client's data. Client acknowledges and accepts all risks and liabilities arising from the nonconforming protocols. Client is responsible and liable for all damages caused by the nonconforming protocols. Paycom is not an insurer against Client's risks. To the extent the Client desires Paycom to assume a greater liability or responsibility than as set forth herein, then, an additional fee must be first quoted to Client and paid by Client before such greater responsibility shall apply to Paycom.

20. Implementation. All setup, conversion, and training fees paid by Client are non-refundable, in whole or in part. In addition to any other setup fees paid by Client, in the event of an implementation delay due solely to the fault of Client that ultimately results in a failure to utilize new or additional Services on the agreed upon check date for the initial use of the applicable Services, Client shall pay an additional fee which shall be no greater than an amount commensurate with Client's initial setup, conversion and training fees. As a condition of Paycom agreeing to accept Client's credit card as an approved form of payment for

the Services, Client agrees that any dispute that Client may raise with respect to the Services must be addressed directly between Client and Paycom. Any dispute that cannot be timely resolved to the mutual satisfaction of the parties shall be resolved in accordance with the dispute resolution provisions as contained in this Agreement. Client agrees to cooperate in good faith, and take all commercially reasonable steps to make available all information necessary for Paycom to implement and provide the Services. Client hereby consents to Paycom taking any steps Paycom deems necessary to obtain such information, including accessing and downloading information related to the Services.

21. Client's Review. To the extent Paycom regularly mails or couriers checks, paystubs, and/or reports to Client, upon Client's receipt of checks, paystubs, and/or reports from Paycom, Client shall promptly examine such checks, paystubs, and reports for each applicable pay period or reporting period and shall notify Paycom of any discrepancies between such documents and Client's own records, or any errors, omissions, or miscalculations in said documents as soon as reasonably possible, but in no event later than thirty (30) calendar days after Client's receipt of said documents. To the extent checks, paystubs, or reports are not regularly mailed or couriered but instead are regularly available for review through the Website Account, then Client shall regularly review and examine said documents for each applicable pay period and shall notify Paycom of any discrepancies between such documents and Client's own records or any errors, omissions, or miscalculations in said documents as soon as reasonably possible, but in no event later than thirty (30) calendar days after said documents become available on the Website Account. Client shall promptly examine all notices received from taxing authorities and governmental entities and promptly report its receipt of any such notices to Paycom. To the extent Client receives any refunds or payments from any taxing authorities or governmental entities that were not otherwise expected and that relate in any way to the Services, Client shall promptly report its receipt of such refunds or payments to Paycom and shall not deposit any such refund check until it has first advised Paycom of its receipt of said check. Client shall be solely responsible for all liabilities, judgments, losses, damages, and costs (including reasonable attorneys' fees) that result from or could have been avoided had Client timely reviewed its documents and timely advised Paycom or any other Parties of any such notices, payments, funds, refunds, errors, omissions, miscalculations, or discrepancies.

22. Confidentiality. Except to the extent prohibited by the Georgia Open Records Act, each Party will take all of the following measures to protect all Confidential Information:

22.1. Hold all Confidential Information (as defined herein at Section 22.9) in the strictest of confidence;

22.2. Safeguard Confidential Information with the same degree of care to avoid unauthorized disclosure as it uses to protect its

own information of a similar nature, but in any event, no less than reasonable care, which necessarily includes the care required by applicable law;

22.3. Not disclose Confidential Information to any of its own employees, agents, contractors, or representatives (“Representatives”), except to those of its Representatives who have signed written confidentiality agreements at least as restrictive and protective as the obligations set forth herein;

22.4. Not use (or assist or permit its Representatives to use) any of the Confidential Information for any purpose other than: (i) the performance of its obligations under the Agreement; and/or (ii) in connection with the defense or prosecution of any claim relating to the subject services. In the event of such use in connection with defense or prosecution of a third party claim, the Party seeking to disclose Confidential Information shall, reasonably in advance, advise the other Party of its intended use of such information and shall not object to the intervention or request for protection of such information in connection with such third party claim or proceeding.

22.5. Except as otherwise provided for in Section 13.8, each Party will maintain all information subject to applicable law in accordance with standards required by applicable law, even beyond the term of the Agreement.

22.6. The following conditions will apply to Representatives:

22.6.1. Representatives that will have access to Confidential Information shall be informed of the confidential nature of such information.

22.6.2. Each Party will impose on its Representatives, as a binding obligation, confidentiality and non-disclosure obligations consistent with the Agreement.

22.7. The restrictions in this Section shall not apply to any information to the extent that it: is or comes within the public domain other than through a breach of this Section 22; or is in a Party’s possession (with full right to disclose) before receipt from the other; or is lawfully received from a third party (with full right to disclose); or is independently developed without access to or use of the Confidential Information; or is required to be disclosed by law or by a court of competent jurisdiction provided that, unless prohibited by law from doing so, the Party required to disclose such information agrees to give prior written or electronic notice of such disclosure and to take reasonable and lawful actions available to it to avoid and/or minimize the extent of such disclosure.

22.8. Either Party may seek injunctive relief for any actual or reasonably anticipated disclosure by the other, including preliminary and permanent injunctive relief, regardless of whether monetary damages caused by the breach can be determined or proved.

22.9. The term “Confidential Information” shall mean all information one Party hereto acquires from the other Party hereto relating to the Services, whether developed by the disclosing Party or by others and whether patented or patentable, including, without limitation, Personal Data (as defined in

Section 23), trade secrets, unpublished patent applications, designs, processes, disaster recovery plans, audit reports, information technology structure and hardware, studies and notes containing or reflecting such information, business plans and strategies, financial information, pricing information, specifications, devices, and all information one Party hereto acquires or observes in connection with the Services, regardless of whether such information is designated as Confidential Information at the time of its disclosure.

23. Data Security. To ensure the security of Client’s electronic nonpublic personal information (“Personal Data”), except as it pertains to Section 19, Paycom shall:

23.1 implement reasonable technical and organizational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure, or access, in particular, where the processing involves the transmission of data over a network, and against all other unlawful forms of processing;

23.2 encrypt Personal Data while in transport over the internet and, when data is not in transport, store such data on storage that is encrypted;

23.3 upon a complete investigation and validation, promptly notify Client of any facts known to Paycom concerning any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage, or destruction of Personal Data by any current or former employee, contractor or agent of Paycom, or by any other person or third party;

23.4 in the event of any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage, or destruction of Personal Data by any current or former employee, contractor or agent of Paycom, reasonably cooperate with Client as required by applicable law to: (i) limit the unauthorized disclosure or use, (ii) seek the return of any Personal Data and (iii) assist in providing notice; and

23.5 upon termination or expiration of the Agreement for whatever reason, Paycom shall maintain the confidentiality and data security obligations set forth herein while Paycom retains any Personal Data.

23.6 In addition to the foregoing, Paycom is not and shall not be Client’s official record keeper. Accordingly, Client shall keep copies of all information and Personal Data it deems necessary.

24. Exclusions to Limitations of Liability. Notwithstanding anything to the contrary in the Agreement, including notwithstanding the paragraph entitled “LIMITATIONS OF LIABILITY” in the PHCMSA, neither Party excludes nor limits its liability to the other for any of the following (and nothing in the Agreement shall be construed as excluding or limiting such liability):

24.1. for personal injury or death resulting from its negligence or that of its employees, agents, or subcontractors:

24.2. for any matter which it would be illegal for that Party to limit its liability;

24.3. for a Party's fraud, fraudulent misrepresentations, defamation, or trade libel;

24.4. for a breach of Section 12 (Client's Indemnity Obligation), Section 13 (Client Representations and Warranties), and/or any Client funding requirements in the Agreement;

24.5. for a Party's fee due and owing for services provided to the other Party;

24.6. for a Party's failure to remit funds and/or satisfy its funding obligations to the other Party; and

24.7. for, after Client remits all applicable tax monies to Paycom and complies with the Agreement in material respects, Paycom's failure to pay and remit said tax monies to applicable Taxing Authorities on Client's behalf.

25. Feedback; Improvement. In the event Client, or any third party on behalf of Client submits any suggestions, ideas, enhancement requests, feedback, recommendations, or other information or ideas regarding the Services or Paycom products (hereinafter referred to as "Feedback"), Client agrees that such Feedback is gratuitous, without restriction and will not place Paycom under any fiduciary or other obligation. Paycom shall be free to disclose such Feedback on a non-confidential basis to anyone. Accordingly, Client assigns to Paycom all rights, title and/or interest in any Feedback relating to the Services, Website Account or Paycom technology, and Client agrees to take all reasonable action(s) as requested by Paycom to evidence, perfect, obtain, maintain, enforce or defend the foregoing. Further, Client consents to Paycom's use of and assigns to Paycom all rights, title and/or interest to any anonymized and/or aggregated data, which may include Client's Data on an anonymized basis, for purposes Paycom deems appropriate in Paycom's discretion, including, without limitation for use to improve or modify the Services, Website Account or Paycom technology.

26. Recording. Each Party hereby consents that such other Party may, without further notice or further notification, electronically monitor or record the telephone conversations between the parties' respective representatives in connection with the parties' business dealings. Each Party agrees that it shall have an expectation that all telephone calls made or received by either Party to the other Party are being electronically monitored or recorded by the other Party for the other Party's business purposes and/or business records retention purposes. Each Party hereby notifies the other Party that it regularly and consistently monitors or records the telephone conversations of the other Party's representatives, and that the monitoring or recording of such telephone conversations is likely to occur at any time and without further notice. It is further agreed that the monitoring or recording activities of such parties' representatives shall constitute permissible monitoring or recording pursuant to this

Agreement. To the extent a Party seeks to, in the future, withdraw and revoke the consent to such monitoring and recording activities provided for in this Agreement, then in order for such revocation to be effective said Party must send a written or electronic notice to the other Party pursuant to the notice provisions of this Agreement, and any such written or electronic notice shall not be effective until at least thirty (30) days after the receiving Party receives such notice.

27. Third Party Arrangements. To the extent the undersigned signatory is acting on behalf of a third party with respect to servicing that third party's payroll and other service needs, the undersigned signatory hereby warrants and represents to Paycom that the signatory has been appointed as the third party's duly authorized agent and has all the requisite authority to bind said third party to the obligations of the Agreement and hereby does bind said third party to each of the obligations of the Agreement. Additionally, third parties shall be required to enter into separate agreements with Paycom. Client shall provide Paycom a list of any such third parties and any other information as requested by Paycom.

28. Interest, Setoff, Recoupment and Remedies. In addition to any other rights or fees provided for herein, if any amount is not paid to Paycom within five calendar days of its due date, Client shall be additionally liable for interest on said unpaid amount at an interest rate of 1½% per month or the highest rate allowed by applicable law, whichever is less, from the due date until paid in full. In the event Client is in default of its payment obligations to Paycom, then Paycom shall have the right to offset and/or apply any of Client's funds being held by Paycom to any outstanding obligation of Client owing to Paycom. Notwithstanding anything to the contrary in this Agreement or any written report or communication among the parties, the specific timing or amounts of any ACH, wire or debit from Client's account shall in no way bind Paycom nor shall it have any bearing on how Paycom applies and/or allocates said funds among the Client's employee direct deposits, Paycom fees, tax payments and/or other sums. In the event any monies credited or debited by Paycom and/or in Paycom's possession are subject to potential reversal, return, setoff or recoupment, then Paycom shall have the right to hold said funds during the time period of potential reversal, return, setoff or recoupment and thereafter shall promptly return all remaining funds to Client after the applicable time period has expired.

29. Force Majeure. Neither Party shall be liable for delays in performance which are caused by natural disasters, strikes, war, terrorism, utility outages, communication outages, or any other circumstances which could not have been reasonably foreseen and avoided by commercially reasonable action, or are beyond the reasonable control of such Party, except that this provision

shall not excuse the failure of Client to timely meet all of its funding and cash requirements to Paycom for any payroll submitted by Client to Paycom. If applicable, either Party shall be excused from performance under the Agreement for the duration of the effects of such circumstances.

30. Direct Deposit Authorization Forms. Before any of Client's employees are setup for utilization of ACH direct deposit, Client shall require that each such employee sign a "Direct Deposit Authorization and Agreement" form, which authorizes Paycom to make transfers to and from the employee's account using the ACH system and which, in certain instances, authorizes Paycom to withdraw funds or reverse fund transfers from Employee's account. For each such Client employee, Client shall maintain such signed forms in Client's possession for a period of at least one year after the last payroll is processed by Paycom for said employee. Client shall provide all such signed forms to Paycom within five (5) days of Paycom's request. In the event that any of Client's employees refuse to sign a "Direct Deposit Authorization and Agreement" form, Client shall not allow said employee(s) to utilize direct deposit. Client further agrees to cooperate with Paycom and/or any other parties to recover funds credited in error to an employee as a result of an error in processing.

31. Waiver. The failure by Client or Paycom to insist upon strict performance of the Agreement shall not constitute a waiver of that provision with respect to demands for future performance.

32. Severability. Each section, subsection and lesser section of the Agreement constitutes a separate and distinct undertaking, covenant or provision hereof. In the event that any provision of the Agreement shall be determined to be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event such a limiting construction is impossible, such invalid or unenforceable provision shall be deemed severed from the Agreement, but every other provision of the Agreement shall remain in full force and effect.

33. Independent Contractors. The Agreement establishes an independent contractor relationship only, by which Paycom will perform the Services described in the Agreement. It is not intended as, and shall not be construed to establish a partnership, joint venture, employer/employee relationship, or master/servant relationship. Paycom shall only be required to assist the Client with its obligations and perform the specific Services provided for in the Agreement, and no others. It is agreed that Paycom is not an insurer and that the fees Paycom charges are based solely on the value of the services provided for herein. Client and Paycom acknowledge and agree that Paycom is retained under the Agreement to assist Client with certain obligations of Client

and that Paycom is not an employer of Client's employees, nor a fiduciary of Client or Client's employees. Paycom is merely providing certain specified services to assist Client. Paycom responsibilities include only the services expressly set forth herein and shall not include any other services, unless agreed to in writing. Nothing contained in the Agreement shall be deemed to permit either Party to conduct business in the name of or on account of the other Party, or to act on behalf of or bind the other Party in any manner whatsoever, except for the taking of actions by Paycom on behalf of Client in the fulfillment of Paycom's specific obligations under the Agreement.

34. No Third Party Beneficiaries. Nothing in the Agreement creates or will be deemed to create third party beneficiaries of or under the Agreement. BY VIRTUE OF THE AGREEMENT, PAYCOM HAS NO OBLIGATIONS TO ANYONE OTHER THAN THE CLIENT ENTITY SIGNING THE AGREEMENT. BY VIRTUE OF THE AGREEMENT, PAYCOM HAS NO OBLIGATION TO ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, TAXING AUTHORITIES AND/OR CLIENT'S EMPLOYEES, INDEPENDENT CONTRACTORS, AND/OR CONSULTANTS).

35. Assignment. Client may assign the Agreement provided that, in the event of an assignment by Client, the successor entity to Client signs all of Paycom's account setup documentation, if necessary. The Agreement may be assigned, in whole or in part, by Paycom to any affiliate entity or sister entity. Subject to the foregoing, the terms and conditions of this Agreement shall be binding upon and inure to the benefit of each Party and its respective successors and assigns.

36. Electronic Signature. Paycom and Client agree to conduct this transaction by electronic means and that an electronic signature of either Party or both Parties, including fax signature, PDF signature, or other electronic means, shall have the same legally binding force and effect as an original signature. An executed copy of the Agreement may be delivered by one or more of the Parties by facsimile, email, or similar instantaneous electronic transmission device pursuant to which the signature of, or on behalf of, the Party can be seen, and such execution and delivery shall be considered valid, legally binding, and effective for all purposes.

37. Entire Agreement, Amendments, and Modifications. The Agreement represents the entire agreement between the Parties, and there are no inducements, representations, or warranties, or any other oral or other written agreements or understandings between the Parties affecting the Agreement, or related to the Services to be provided by Paycom or duties undertaken by Client under the Agreement. Upon 30 days' notice to Client, Paycom may amend the Agreement at any time in its sole discretion, by posting the amended terms to Client's Website

Account. Upon receipt of such notice, Client may object in writing to any proposed changes and the Parties may negotiate. However, if Client does not provide a written objection within 30 days of its receipt of notice, Client will be deemed to have consented to any proposed amendments and such changes shall go into effect. With respect to the Services, the Agreement supersedes all previous agreements and negotiations between the Parties. It is understood and agreed that no employee, officer, or director of Paycom has the authority to modify the Agreement orally.

38. Venue; Governing Law. Any claim arising out of or related to this Agreement, including without limitation claims related to the Parties' negotiations and inducements to enter into this Agreement, shall be submitted to mandatory, binding arbitration under the auspices of the American Arbitration Association (the "ADR Association"), in Georgia, with the parties sharing equally the costs of arbitration. Arbitration will proceed according to the commercial rules of the ADR Association. This section does not limit either Party's right to provisional or ancillary remedies from a court of competent jurisdiction before, during, or after the pendency of any arbitration, and the exercise of any such remedy does not waive either Party's right to arbitration. Judgment on an arbitration award may be entered by any court with competent jurisdiction. Any legal proceedings to resolve or litigate any dispute will be conducted solely on an individual basis. No Party will seek to have any dispute heard as a class action or in any other proceeding in which either Party acts or proposes to act in a representative capacity. *Any and all such rights to proceed on a class-wide basis are hereby waived. No proceeding will be combined with another without the prior written consent of all parties to all affected proceedings. If any portion of this class action waiver is deemed unenforceable, then that portion will be severed with the remainder remaining in full force and effect.* Client expressly waives any claim of sovereign immunity as to

Client's business dealings with Paycom if applicable (i.e. Native American Nations). If either Party brings a legal action to enforce the Agreement, the prevailing Party in such action, as determined by the court, shall be entitled to recover reasonable attorneys' fees and litigation expenses as determined by the court. Client and the undersigned individual each represent that the signatory to the Agreement is authorized to enter into such agreement on behalf of Client.

39. To the extent not prohibited by law, during the term of the Agreement and for the twelve (12) months thereafter, Client shall not knowingly solicit or knowingly hire for employment or as a consultant, any Paycom employee or former Paycom employee who has had dealings with Client in any capacity while employed at Paycom.

40. WAIVER OF JURY TRIAL. PAYCOM AND THE CLIENT EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ISSUE TRIABLE BY A JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH REGARD TO THE AGREEMENT OR THE PARTIES' BUSINESS DEALINGS, OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY PAYCOM AND THE CLIENT AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY MAY OTHERWISE ACCRUE. PAYCOM AND THE CLIENT ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE OTHER PARTY.

AGREED AND ACCEPTED BY CLIENT:

COMPANY LEGAL NAME

TYPE OR PRINT NAME TITLE

AUTHORIZED SIGNATURE

PAYCOM PAYROLL, LLC d/b/a PAYCOM:

AUTHORIZED SIGNATURE

TYPE OR PRINT NAME

Reporting Agent
TITLE



Payroll and Human Capital Management Services Agreement

This Payroll and Human Capital Management Services Agreement (“PHCMSA”), effective as of the Effective Date below, is by and between Paycom Payroll, LLC, a Delaware limited liability company whose corporate headquarters is located at 7501 W. Memorial Road, Oklahoma City, OK 73142 (hereinafter “Paycom”) and the undersigned Client (hereinafter “Client”). Paycom and Client agree as follows with respect to all services provided by Paycom to Client (“Services”).

Subject to this PHCMSA, the General Terms and Conditions, the applicable Service component Schedules (“Schedules”) and addenda, which are each hereby incorporated by reference (collectively, the “Agreement”), Paycom agrees to perform and Client hereby engages and hires Paycom to perform on Client’s behalf each of the Services indicated on proposal(s) acknowledged by Client.

Paycom shall commence performing each Service component promptly after Client provides Paycom with the information that Paycom requires to begin performing the subject Service component.

Paycom’s Services are based upon information and instructions provided by Client. Client is solely responsible for the accuracy and completeness of all information and instructions provided to Paycom. Notwithstanding anything to the contrary in this Agreement, Paycom shall not be liable or responsible for errors or omissions arising from Paycom’s reliance upon Client’s instructions or incorrect or incomplete information provided by Client. Paycom shall not be required to amend or refile any tax return or tax filing on behalf of Client unless the erroneous filing was the sole fault of Paycom.

LIMITATIONS OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, BUT EXCEPT AS TO THOSE MATTERS PROVIDED FOR IN SECTION 24 OF THE GENERAL TERMS AND CONDITIONS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES TO BUSINESS REPUTATION, LOST BUSINESS, LOST ANTICIPATED PROFITS, OR LOST ANTICIPATED SAVINGS), WHETHER FORESEEABLE OR NOT AND HOWEVER CAUSED, EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY THAT SUCH DAMAGES MIGHT ARISE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR THE ITEMS DESCRIBED IN SECTIONS 24.1 THROUGH 24.7 OF THE GENERAL TERMS AND CONDITIONS, THE LIABILITY OF EACH PARTY TO THE OTHER FOR ANY OR ALL LOSSES OR INJURIES FROM ANY ACTS OR OMISSIONS UNDER THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE LEGAL OR EQUITABLE RIGHT CLAIMED TO HAVE BEEN VIOLATED, SHALL NOT EXCEED THE AMOUNT PAID BY CLIENT TO PAYCOM UNDER THIS AGREEMENT FOR THE SERVICE COMPONENT WHICH IS THE SUBJECT OF THE ALLEGED BREACH DURING THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY PRECEDING THE ALLEGED BREACH.

Any claim arising out of or related to this Agreement, including without limitation claims related to the Parties’ negotiations and inducements to enter into this Agreement, shall be submitted to mandatory, binding arbitration under the auspices of the American Arbitration Association (the “ADR Association”), in Georgia, with the parties sharing equally the costs of arbitration. Arbitration will proceed according to the commercial rules of the ADR Association. This section does not limit either Party’s right to provisional or ancillary remedies from a court of competent jurisdiction before, during, or after the pendency of any arbitration, and the exercise of any such remedy does not waive either Party’s right to arbitration. Judgment on an arbitration award may be entered by any court with competent jurisdiction. Client and the undersigned individual each represent that the signatory to this Agreement is authorized to enter into such agreement on behalf of Client.

By signing below, Client agrees that it has (1) received, read and understands the Agreement and (2) agrees to be bound by the terms of the Agreement.

IN WITNESS WHEREOF, Paycom and Client have executed this Agreement to be effective _____ (the “Effective Date”).

AGREED AND ACCEPTED BY CLIENT:

PAYCOM PAYROLL, LLC d/b/a PAYCOM:

COMPANY LEGAL NAME

AUTHORIZED SIGNATURE

TYPE OR PRINT NAME

TITLE

TYPE OR PRINT NAME

AUTHORIZED SIGNATURE

Reporting Agent
TITLE

FEIN: _____



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Benefit Premiums
AGENDA DATE: 10/13/2020

DATE PREPARED: 10/01/2020
PREPARED BY: Stephanie Rooks

AMOUNT: NA
GL ACCOUNT #: Various department accounts
FUNDING SOURCE: General Fund
BUDGETED ITEM? Yes

PURPOSE: The purpose is to revise the medical plan premiums based on our renewal for the 2021 Plan Year, effective January 1, 2021.

BACKGROUND: The medical plan renewal figures have been evaluated and health premiums have been adjusted to reflect the cost of the plan. Fixed costs increased by 9% due to a change in TPA, maximum claim liability increased 1.5% and premiums by 3.4%. Premiums vary due to coverage level, Tobacco use and participation in the Wellness Plan.

Premiums are set based on wellness plan participation and tobacco use. If an employee chooses not to participate in the wellness plan, they will have a higher premium. An employee that is a tobacco user, they will incur the two highest premiums.

During the renewal the Mutual of Omaha rates did not change for plan year 2021. These plans include:

- Dental
- Vision
- Accident
- Critical Illness
- Short Term Disability
- Voluntary Life (Employee)
- Voluntary Supplemental Life (Spouse)
- Voluntary Supplemental Life (Children)

STAFF RECOMMENDATION: Approval

IMPACT: The premium adjustment will fund the health insurance plan. The higher premium tiers will encourage participation and discourage tobacco use.

MOTION: Make a motion to approve the benefit plan premiums as presented. Rates will be effective January 1, 2021 with deductions beginning in December 1, 2020.

Proposed 2021 Health Insurance Premiums

Total Monthly Premium	Semi-Monthly Total Premium	Description	Rate	Semi-Monthly Employee Amount	Semi-Monthly Employer Portion	Monthly Employee Amount	Monthly Employer Amount
Health with Wellness (Not a Tobacco user)							
\$687.04	\$343.52	Employee	5.0%	\$17.18	\$326.34	\$34.35	\$652.69
\$1,305.38	\$652.69	Empl + spouse	30.0%	\$109.93	\$542.76	\$219.85	\$1,085.52
\$1,133.62	\$566.81	Empl + Child(ren)	30.0%	\$84.16	\$482.65	\$168.32	\$965.29
\$1,923.71	\$961.86	Family	30.0%	\$202.68	\$759.18	\$405.35	\$1,518.36

Health no Wellness (Not a Tobacco user)							
\$687.04	\$343.52	EE	14.5%	\$49.81	\$293.71	\$99.62	\$587.42
\$1,305.38	\$652.69	ES	29.0%	\$139.47	\$513.22	\$278.94	\$1,026.44
\$1,133.62	\$566.81	EC	29.0%	\$114.56	\$452.25	\$229.13	\$904.49
\$1,923.71	\$961.86	Family	29.0%	\$229.13	\$732.73	\$458.26	\$1,465.46

Health with Wellness (Tobacco user)							
\$687.04	\$343.52	EE	19.0%	\$65.27	\$278.25	\$130.54	\$556.50
\$1,305.38	\$652.69	ES	38.0%	\$182.75	\$469.94	\$365.51	\$939.87
\$1,133.62	\$566.81	EC	38.0%	\$150.12	\$416.69	\$300.24	\$833.38
\$1,923.71	\$961.86	Family	38.0%	\$300.24	\$661.62	\$600.47	\$1,323.24

Health no Wellness (Tobacco user)							
\$687.04	\$343.52	EE	23.5%	\$80.73	\$262.79	\$161.45	\$525.59
\$1,305.38	\$652.69	ES	47.0%	\$226.04	\$426.65	\$452.07	\$853.30
\$1,133.62	\$566.81	EC	47.0%	\$185.67	\$381.14	\$371.35	\$762.27
\$1,923.71	\$961.86	Family	47.0%	\$371.35	\$590.51	\$742.69	\$1,181.02



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Plan Document Changes

AGENDA DATE: 10/13/2020

DATE PREPARED: 10/01/2020

PREPARED BY: Stephanie Rooks

AMOUNT: NA

GL ACCOUNT #: Various department accounts

FUNDING SOURCE: General Fund

BUDGETED ITEM? Yes

PURPOSE: Modify plan document to reflect changes to employee co-pays for the emergency room and urgent care facilities.

BACKGROUND:

Currently we are charging \$350 co-pay for an emergency room visit. If you are subsequently admitted to the hospital the copay will be waived. We are proposing to increase the copay from the current level of \$350 to \$500, with the same waiver provision.

Visiting as urgent care facility currently requires a \$50 copay. We are proposing a reduction in this copay to \$25, in an effort to encourage employees to use their primary care physicians or urgent care facilities instead of the emergency room.

STAFF RECOMMENDATION: Approval

IMPACT: .

MOTION: Make a motion to approve the modification of the plan document to reflect the changes in the ER copay of \$350.00 to \$500.00 and the Urgent Care facility copay from \$50 to \$25, effective January 01, 2021.



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Health Benefit Changes (TPA)

AGENDA DATE: 10/13/2020

DATE PREPARED: 10/01/2020

PREPARED BY: Stephanie Rooks

AMOUNT: NA

GL ACCOUNT #: Various department accounts

FUNDING SOURCE: General Fund

BUDGETED ITEM? Yes

PURPOSE: Changing TPA form HealthScope Benefits to Allied Health

BACKGROUND: Currently we use HealthScope Benefits for our claim adjudication. We use ClaimDoc to adjust charges and resolve balance billing situations. We use AIMM to pre-certify procedures and for case management.

We are proposing the change to Allied Health(Allied). This proposal will change one vendor (HealthScope) and eliminate two others (ClaimDoc and AIMM). The Allied health will be able to pre-certify procedures, adjudicate claims and resolve the balance billing situations within an average of 90 days, all within their company. There will be a few balance bills, but not as many as we see now.

STAFF RECOMMENDATION: Approval

IMPACT: Our employees will not encounter as many balance bills. And resolution will be faster. Having one vendor eliminates confusion and complication.

MOTION: Make a motion to approve Allied Health as the TPA for the City's Health Benefit Plan, effective January, 01 2021.

ADMINISTRATIVE SERVICES AGREEMENT
GROUP NO. _____

This Agreement is made and entered into as of this 1st day of January, 2021 ("Effective Date") by and between City of Villa Rica (hereinafter referred to as "Employer") and Allied Benefit Systems, Inc. (hereinafter referred to as "Claims Processor"). The purpose of this Agreement is to detail the responsibilities and obligations of the parties with respect to the Employer's program of providing medical and/or other benefits for employees and their dependents (hereinafter referred to as "Benefit Plan").

Therefore, for and in consideration of the mutual covenants contained herein and for other valuable consideration, it is agreed as follows:

1. RESPONSIBILITIES OF THE EMPLOYER

- a. Furnish the Claims Processor with a written detailed description of the Benefit Plan.
- b. Determine the claims administration procedures and practices to be followed, which are not self-evident from the Benefit Plan and provide such information in writing to the Claims Processor.
- c. Determine the eligibility of an employee or dependent to receive benefits.
- d. Remit all fees and insurance premiums when due. Failure to do so may result in a loss of coverage, and suspension of administrative services pursuant to Section 10 of this Agreement, and will relieve the Claims Processor of any further responsibility under this Agreement. Payments received after the due date may be subject to a \$25.00 late fee.
- e. Perform and comply with the obligations set forth in the HIPAA Business Associate Addendum, attached as Exhibit A to this Agreement and incorporated hereto by reference.
- f. Provide the Claims Processor with a list of the social security numbers and Medical Health Insurance Claim Numbers ("HICNs") (if applicable) for all Benefit Plan participants (employees and dependents) upon request in order for the Claims Processor to supply such information to the Centers for Medicare and Medicaid Services in compliance with the Medicare, Medicaid and SCHIP Extension Act.
- g. If accessing the MultiPlan, Inc. ("MPI") preferred provider network, Employer shall: comply with the applicable terms and conditions of any MPI network provider agreements; comply with any applicable terms of the network access agreement between Claims Processor and MPI; and timely pay the MPI network providers the reimbursement rates contained in the MPI network provider agreements.
- g. The Employer shall furnish the Claims Processor with the following information for each employee and dependent for which COBRA coverage will be offered by the Employer:
 - i.name

- ii.address
- iii.social security number
- iv.date of birth
- v.type of qualifying event
- vi.date of qualifying event
- vii.premium rate
- viii.available coverage
- ix.any other appropriate information requested by the Claims Processor.

Such information will be forwarded to the Claims Processor within thirty (30) days of the date of the qualifying event.

h. Attest that the Benefit Plan has executed a legally compliant Business Associate Agreement with its Broker of Record pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") and its corresponding regulations. The Employer shall further attest that 1) the Benefit Plan shall enter into a legally compliant Business Associate Agreement with any third party the Employer has requested to transmit or receive Protected Health Information (as defined pursuant to HIPAA) to/from the Claims Processor on behalf of the Benefit Plan, or 2) the Broker of Record shall enter into a legally compliant Business Associate Subcontractor Agreement with any third party the Employer has requested to transmit or receive Protected Health Information to/from the Claims Processor on behalf of the Benefit Plan.

2. RESPONSIBILITIES OF THE CLAIMS PROCESSOR

- a. Prepare a draft summary plan description of the Benefit Plan in accordance with the Employer's detailed description for the Employer's final review and approval and prepare any draft amendments requested by the Employer during the continuance of the servicing of the Benefit Plan for the Employer's final review and approval.
- b. Arrange for design and printing of summary plan descriptions for Benefit Plan participants. The cost of printing summary plan descriptions and any subsequent amendments shall be paid by the Employer.
- c. Follow the claims administration procedures and practices requested in writing by the Employer and consult with the Employer on any changes.
- d. Provide suitable facilities, personnel, procedures, forms and instructions and other services reasonably necessary for the processing of claims under the Benefit Plan.
- e. Determine, in accordance with the Benefit Plan and claims processing procedures and practices, the qualification of claims submitted, making as required, such investigations as may be reasonably necessary as determined by the Claims Processor.
- f. Forward payment with Employer funds as provided for in Section 5 of amounts due with respect to claims that qualify under the Benefit Plan as provided above.

g. Submit to the Employer a reconciliation, which includes a monthly accounting of payments made in sufficient detail to provide for the audit and control of funds used.

h. Submit to the Employer a monthly accounting of benefit payments by major line of coverage and payments to individuals.

i. Submit to each employee and dependent specified by the Employer a COBRA package containing the necessary election forms and premium rates established by the Employer. Such information will be forwarded to any individual specified by the Employer within fourteen (14) days of the date the Claims Processor receives the Employer's request. If COBRA coverage is elected, the Claims Processor shall forward to the individual(s) payment coupons indicating the monthly premium payments for continued coverage. Such coupons will be forwarded within fourteen (14) days of the date the signed and completed election form is received by the Claims Processor.

j. Collect and return to the Employer any premium payments made by or on behalf of a COBRA participant.

k. If requested, assist the Employer in the preparation and filing of Form 5500 for the Benefit Plan.

l. If requested, submit to the Employer for consideration and final determination, the stop-loss or excess reinsurance coverage, if any, to purchase on behalf of the Benefit Plan prior to the establishment of the Benefit Plan or any annual renewal.

m. Coordinate and support services provided by other vendors, including but not limited to the preferred provider organization; utilization review, case management and medical review company and pharmacy benefit manager. Such vendors are listed in the PTE Disclosure Statement, which is incorporated by reference. Such services include, but are not limited to claims repricing, eligibility maintenance, reporting and billing.

n. Comply with the requirements imposed on the Claims Processor by the Medicare, Medicaid and SCHIP Extension Act, including the transmission of the social security numbers and HICNs of Employer's Benefit Plan participants to the Centers for Medicare and Medicaid Services as applicable.

3. ADMINISTRATION FEE

The Claims Processor shall be entitled to a fee for the services outlined in this Agreement in accordance with the Schedule provided in Exhibit B, incorporated by reference into this Agreement. As stated in Exhibit B, this fee, among other things, is subject to change by the Claims Processor as of the anniversary date of each year during the continuation of this Agreement, as well as by reason of 1) a change imposed by any governmental entity, 2) a revised interpretation of an existing requirement, 3) the enactment of a new law or regulation, or 4) a greater than 15% change in enrollment at any time from the Effective Date of this Agreement. As such, the Claims Processor reserves the

right to amend Exhibit B as referenced therein.

4. COMMISSIONS

The Claims Processor shall be entitled to commissions paid by a reinsurance company as a usual practice. In the contracts arranged in conjunction with this Agreement, these commissions equal 0% of the reinsurance premiums. The Claims Processor may also receive a production bonus from the reinsurance company based on its volume of business with the reinsurance company. The referring broker, if any, shall be entitled to a commission, expressed as a portion of the total administration fee or total reinsurance premium or both. The Claims Processor will provide the Employer with the name of the reinsurance company and the relationship between that company and the Claims Processor, if any, in order that there is compliance with Prohibited Transaction Class Exemptions 77-9 and 84-24 issued by the Department of Labor.

5. APPROVAL OF BROKERS, CONSULTANTS AND INSURANCE ADVISORS

The Claims Processor's proprietary products and professional services, which are made available through brokers, consultants and insurance advisors, are unique and highly technical in nature. Accordingly, such brokers, consultants and insurance advisors may be required to go through the Claim Processor's training, credentialing and approval process, upon the Claims Processor's discretion. The Claims Processor approves each of these relationships at the individual producer level, not at a company-wide level. The Claims Processor reserves the right to not release any client specific (and/or Benefit Plan member) data to a non-approved broker, consultant or insurance advisor.

6. BENEFIT PLAN ACCOUNT

The Employer shall provide funds to be used to make Benefit Plan payments to, or on behalf of, plan participants as funds are needed to cover such payments. It shall be the Employer's responsibility to provide funds sufficient to cover Benefit Plan payments. The Claims Processor shall not be liable for provider/facility charges claimed as a result of purported lost discounts, or for any other expenses incurred as a result of purported lost discounts.

7. AUDIT

Upon reasonable prior written notice, the Employer and/or its designated auditor may conduct an on-site audit to examine any records of Claims Processor relating to the performance of its responsibilities under this Agreement, including processing of eligibility, claims, claims payments, and the issuing of checks for

payment of claims. The audit must be reasonable in scope as mutually determined by the Employer and Claims Processor. In addition, Claims Processor must consent to the choice of auditor, such consent shall not be unreasonably withheld. Audits performed on a contingency fee basis will not be allowed by the Claims Processor. Employer shall pay all expenses and fees associated with the auditor, and shall also pay a fee to Claims Processor for Claims Processor's time and costs associated with the audit. The amount of this fee to Claims Processor shall be agreed to in writing between the parties in advance of the audit.

8. LIABILITY AND INDEMNITY

a. The Claims Processor does not insure nor underwrite the liability of the Employer under the Benefit Plan. The Employer acknowledges and agrees that: (a) the services provided by the Claims Processor to the Benefit Plan are purely ministerial in nature and shall be performed, without any discretionary authority or control, within the framework established by the Employer; (b) the Employer retains the ultimate responsibility for claims made under the Benefit Plan, COBRA compliance, the purchase of stop-loss or excess reinsurance coverage, the filing of Form 5500 and all expenses incident to the Benefit Plan; (c) the Employer retains the exclusive discretionary authority and control to manage and otherwise administer the Benefit Plan and the disposition of its assets, to establish Benefit Plan conditions and procedures, and to review the application of such policies and conditions, and (d) with the exception of payments made by Employer to Claims Processor in satisfaction of any administrative fees or commissions, Claims Processor will act as a mere custodian, financial intermediary, or commercial conduit with respect to any funds provided by Employer to Claims Processor pursuant to this Agreement, and Claims Processor shall not be considered an initial transferee of those funds, as those terms are applied to Section 550 of Title 11 of the United States Code. The Employer agrees to indemnify the Claims Processor and hold the Claims Processor harmless against claims for insurance premiums, taxes, penalties, employee benefits and any and all losses, damages, expenses, costs or liabilities, including reasonable attorneys' fees and court costs, arising out of claims brought against the Claims Processor 1) to recover benefits under the Benefit Plan, 2) to recover damages for failure to pay such benefits, including any purported lost discounts, or 3) in connection with any other action or claim relating to the Benefit Plan, including, without limitation, any action for recovery of amounts paid to the Claims Processor for the Benefit Plan (with the exception of payments in satisfaction of administrative fees or commissions), whether under Sections 544, 547, and 548 of Title 11 of the United States Code or otherwise, unless such losses, damages, expenses, costs or liabilities are incurred solely as a result of the negligence of the Claims Processor.

b. To the ~~maximum~~ extent as permitted under ~~applicable Georgia~~ law, Employer agrees to indemnify the Claims Processor and hold the Claims Processor harmless for penalties levied by the federal government against the Claims Processor for failure to provide all social security numbers and HICNs (when applicable) of Employer's Benefit Plan participants to the Centers for Medicare and Medicaid Services, pursuant to the Medicare, Medicaid and SCHIP Extension Act. This section will not apply when such failure is based on the negligence of Claims Processor.

c. During the continuance of this Agreement, the Claims Processor agrees to indemnify the Employer and hold the Employer harmless against any and all loss, damage, and expense with respect to this Benefit Plan resulting from or arising out of the dishonest, fraudulent or criminal acts of the Claims Processor's employees, acting alone or in collusion with others. The Claims Processor shall maintain blanket bond coverage for employee dishonesty.

d. Claims Processor shall not be responsible or liable for any tax, penalty or fee due to any governmental entity as either a direct or indirect result of the existence and/or administration of the Benefit Plan. Employer agrees to indemnify, defend, hold harmless and reimburse the Claims Processor from, and in connection with, any liability related to any tax, penalty or fee assessed against the Claims Processor as either a direct or indirect result of the existence and/or administration of the Benefit Plan.

e. Claims Processor shall not be liable to Employer for any claim which is asserted by Employer more than one (1) year after Employer is or should have been reasonably aware of such claim, and will in no event be liable to Employer for any claim which is asserted by Employer more than twenty-four (24) months after the event resulting in damage or loss.

f. Claims Processor shall not be liable for provider/facility charges claimed as a result of purported lost discounts, or for any other expenses incurred as a result of purported lost discounts.

g. The provisions contained within this Section 8 shall survive termination of this Agreement.

9. SEVERABILITY

Should any part of this Agreement be declared invalid, any remaining portion shall remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated.

10. TERMINATION AND REVISION

This Agreement shall commence as of the Effective Date and shall continue in full force and effect for one (1) year, and thereafter shall automatically renew for additional terms of one (1) year. Notwithstanding the foregoing, either party may terminate this Agreement by providing at least sixty (60) days' advanced written notice of such termination to the other party.

Additionally, notwithstanding the foregoing, if the Employer fails to respond to a request by the Claims Processor to provide or make available funds for Benefit Plan payments or other payments processed by the Claims Processor pursuant to this Agreement, the Claims Processor may immediately suspend providing administrative services under this Agreement until the requested funds have been provided or made available. The Claims Processor may also terminate this Agreement immediately if the Employer fails to provide requested funds within five (5) business days of written notice by the Claims Processor.

The Claims Processor shall also have the right to suspend the performance of administrative services under this Agreement if the Claims Processor's fees have not been paid when due. The Claims Processor may also terminate this Agreement immediately if the Employer fails to pay the Claims Processor's fees within thirty (30) days of written notice by the Claims Processor.

Other than Claim Run Out Services described below, no services will be provided by the Claims Processor after the termination of this Agreement unless agreed to in writing by both parties. Upon termination of this Agreement, all claim files shall remain in the Claims Processor's possession, subject to the Business Associate Addendum. However, if requested by the Employer in writing, the Claims Processor will provide a computer - generated Paid Claims Analysis Report and Eligibility Listing for the period of this Agreement. All other fees due and owing shall continue to be paid as billed. This Agreement represents the entire agreement between the parties and no other representations, oral or otherwise, are binding.

For twelve (12) months following termination of this Agreement, Allied shall, at Employer's election, continue to process run-out claims. For purposes of this Agreement, a "run-out claim" shall mean any claim incurred prior to, but which is submitted to the Claims Processor after, termination of the Agreement, or which is pending appeal at the time of this Agreement is terminated. For such services, Employer shall pay a one time fee to Claims Processor in the amount of four months of Claims Processor's monthly administrative revenue multiplied by the average employee count for the Employer. No additional fee will apply to run-out claims processing, except that the fees set forth in sections III, IV, V, VI, VII, VIII, and IX of Exhibit B shall apply to run-out claims, as and if applicable. Run-out claims processing will terminate if Employer fails to provide the required funds for payment of benefits under the terms of this Agreement.

11. INDEPENDENT CONTRACTOR

It is understood and agreed that the Claims Processor is engaged to perform services under this Agreement as an independent contractor and not as an employee,

agent, partner or joint venturer of the Employer, its broker or consultant or any other vendor.

12. FORCE MAJEURE

A party shall not be liable for any failure or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, civil disturbance, strikes or labor disputes, embargoes, government orders or any other force majeure event.

13. NO CONTINUING WAIVER

Failure of either party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provision or in any way offset the validity of this Agreement or any part thereof or the right of such party to thereafter enforce each and every provision of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

14. THIRD PARTY RIGHTS

Nothing contained in this Agreement, expressed or implied, is intended to confer, or shall confer, upon any individual participant in or beneficiary under the Benefit Plan any rights or remedies under or by reason of this Agreement.

15. NONSOLICITATION AND NONHIRING

During the term of this Agreement and for a period of twenty-four (24) months following termination of this Agreement, for any reason, with or without cause, neither party shall directly or indirectly hire or (attempt to hire) any employee or independent contractor of the other party, or solicit or induce (or attempt to solicit or induce) any employee or independent contractor of the other party to leave or terminate his/her employment and/or independent contractor relationship. This provision shall survive termination of this Agreement.

16. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

17. HEADINGS, GENDER AND NUMBER

Paragraph numbers and headings have been inserted solely for convenience and reference and shall not be construed to affect or limit the meanings, construction or effect of this Agreement. Use of the masculine gender shall include the feminine gender and vice

versa. Use of the word "party" shall mean and include any trust, corporation, partnership, or other entity. The singular number shall include the plural number and vice versa.

18. APPLICABLE LAWS AND FORUM SELECTION CLAUSE

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Illinois. All judicial proceedings brought against any party arising out of or relating to this Agreement or any obligation hereunder shall be brought in any federal or state court of competent jurisdiction located in the State of Illinois.

19. AMENDMENTS AND MODIFICATIONS

Unless stated otherwise in this Agreement, this Agreement may only be revised by a written agreement signed by both parties.

20. ERISA PROHIBITED TRANSACTION CLASS EXEMPTION 77-9 AND 84-24 (PTE 77-9 AND 84-24) DISCLOSURE STATEMENT

See Exhibit B, incorporated by reference into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the day and year first above written.

FOR THE EMPLOYER:

BY: _____

TITLE: _____

DATE: _____

FOR THE CLAIMS PROCESSOR:

BY: _____

TITLE: _____

DATE: _____

ALLIED BENEFIT SYSTEMS, INC.
200 West Adams
Suite 500
Chicago, IL 60606
(312) 906-8080

EXHIBIT A
HIPAA BUSINESS ASSOCIATE ADDENDUM

This HIPAA Business Associate Addendum ("Addendum") supplements and is made a part of the Administrative Services Agreement ("Agreement") between City of Villa Rica, plan sponsor of the City of Villa Rica Employee Benefit Plan ("Covered Entity") and Allied Benefit Systems, Inc. ("Business Associate").

Covered Entity and Business Associate are parties to the Agreement pursuant to which Business Associate provides certain services to Covered Entity. In connection with Business Associate's services, Business Associate creates, receives, maintains and/or transmits Protected Health Information ("PHI") on behalf of Covered Entity. To that end, the purpose of this Addendum is to comply with the requirements of (i) the implementing regulations at 45 C.F.R. Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (i.e., the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules ("the Implementing Regulations")), (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") that are applicable to business associates, and (iii) the requirements of the final modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules as issued on January 25, 2013 and effective March 26, 2013 (75 Fed. Reg. 5566 (Jan. 25, 2013)) ("the Final Regulations"). The Implementing Regulations, the HITECH Act, and the Final Regulations are collectively referred to in this Addendum as "the HIPAA Requirements."

Covered Entity and Business Associate agree to incorporate into this Addendum any regulations issued by the U.S. Department of Health and Human Services ("HHS") with respect to the HIPAA Requirements that relate to the obligations of business associates to be reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the provisions of the HIPAA Requirements directly applicable to Business Associate, and that it has direct liability for any violations of such HIPAA Requirements.

In the event of an inconsistency between the provisions of this Addendum and a mandatory term of the HIPAA Requirements (as these terms may be expressly amended from time to time by HHS or as a result of interpretations by HHS, a court, or another regulatory agency with authority over the parties), the interpretation of HHS, such court or regulatory agency shall prevail.

Where provisions of this Addendum are different from those mandated by the HIPAA Requirements, but are nonetheless permitted by the HIPAA Requirements, the provisions of this Addendum shall control.

In light of the foregoing and the requirements of HIPAA, Business Associate and Covered Entity agree to be bound by the following terms and conditions:

1. Definitions.

(a) General. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms are defined in the HIPAA Requirements.

(b) Specific.

i. Breach. "Breach" shall mean, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of Unsecured Protected Health Information in a manner not permitted by the HIPAA Requirements that compromises the security or privacy of that Protected Health Information.

ii. Business Associate Subcontractor. "Business Associate Subcontractor" shall mean, as defined in 45 C.F.R. § 160.103, any entity (including an agent) that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate.

iii. Electronic Protected Health Information. "Electronic Protected Health Information" ("E PHI") shall have the same meaning set forth in 45 C.F.R. § 160.103, as amended from time to time, and generally means Protected Health Information that is transmitted or maintained in any electronic media.

iv. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

v. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

vi. Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Addendum.

vii. Required By Law. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.

viii. Security Incidents. The term "Security Incidents" has the meaning set forth in 45 C.F.R. § 164.304, as amended from time to time, and generally means the attempted or successful unauthorized access, use, disclosure, modification, or

destruction of information or interference with systems operations in an information system.

ix. Security Rule. "Security Rule" shall mean the Standards for Security of Individually Identifiable Health Information created, transmitted, maintained or received in an electronic media (45 C.F.R. Parts 160, 162 and 164.)

x. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

xi. Unsecured Protected Health Information. "Unsecured Protected Health Information" shall mean, as defined in 45 C.F.R. §164.402, Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by HHS.

2. Flow-Down of Obligations to Business Associate

Subcontractors. Business Associate agrees that as required by the HIPAA Requirements, Business Associate will enter into a written agreement with all Business Associate Subcontractors that: (i) requires them to comply with the Privacy and Security Rule provisions of this Addendum in the same manner as required of Business Associate, and (ii) notifies such Business Associate Subcontractors that they will incur liability under the HIPAA Requirements for non-compliance with such provisions. Accordingly, Business Associate shall ensure that all Business Associate Subcontractors agree in writing to the same privacy and security restrictions, conditions and requirements that apply to Business Associate with respect to PHI.

3. Obligations and Activities of Business Associate under HIPAA Privacy Rules

(a) Use and Disclosure. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Addendum or as Required by Law. When performing the functions and activities specified in the Agreement and this Addendum (including when requesting PHI from another covered entity or business associate), Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.

(b) Appropriate Safeguards. Business Associate shall establish, implement and maintain appropriate safeguards, and comply with the Security Standards (Subpart C of 45 C.F.R. Part 164) with respect to electronic PHI, as necessary to prevent any use or disclosure of PHI other than as provided for by this Addendum. Without limiting the generality of the foregoing, Business Associate agrees to protect the integrity and confidentiality of any PHI it electronically exchanges with Covered Entity.

(c) Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of

the requirements of this Addendum.

(d) Reporting. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided in this Addendum of which Business Associate becomes aware, including reporting Breaches of Unsecured PHI as required by 45 C.F.R. § 164.410 and this Addendum.

(e) Access to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably requested by Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to those individuals who are the subject of the PHI (or their designees) in order to meet the requirements under 45 CFR 164.524. Business Associate shall make such information available in an electronic format where directed by Covered Entity.

(f) Amendments to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity.

(g) Access to Books and Records. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner reasonably requested by the Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's and/or Business Associate's compliance with the HIPAA Requirements.

(h) Accountings. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

(i) Requests for Accountings. Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner reasonably requested by Covered Entity, information collected in accordance with Section 3.h. of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

4. Obligations and Activities of Business Associate under HIPAA Security Rules

(a) Business Associate shall use appropriate administrative, technical, and physical safeguards ("Safeguards"), that reasonably and appropriately protect the integrity, confidentiality, and availability of, and to prevent non-permitted or violating use or disclosure of, EPHI created, transmitted, maintained,

or received in connection with the services provided under the Agreement.

(b) Business Associate shall document and keep these Safeguards current. These Safeguards shall extend to transmission, processing, and storage of EPHI. Transmission of EPHI shall include transportation of storage media, such as magnetic tape, disks or compact disk media, from one location to another. Upon Covered Entity's request, Business Associate shall provide Covered Entity access to, and copies of, documentation regarding such Safeguards.

(c) Business Associate shall comply with and implement the requirements of the HIPAA Security Rule (45 C.F.R. Parts 160, 162, and 164) by:

- i. Implementing administrative, physical, and technical safeguards required by the Security Rule that reasonably protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.
 - ii. Ensuring that any Business Associate Subcontractors to whom it provides such information agree to implement reasonable and appropriate safeguards to protect such information;
 - iii. Reporting and tracking all Security Incidents as described below;
 - iv. Business Associate shall report to Covered Entity any Security Incident that results in (i) unauthorized access, use, disclosure, modification, or destruction of Covered Entity's EPHI of which Business Associate becomes aware, or (ii) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware;
 - v. Business Associate shall report to Covered Entity within twenty-one (21) days after Business Associate learns of such Security Incident. For any other Security Incident, Business Associate shall aggregate the data and provide such reports on a quarterly basis, or more frequently upon Covered Entity's request.
 - vi. Making Business Associate's policies and procedures and documentation required by the Security Rule related to these safeguards available to the Secretary for purposes of determining Covered Entity's and/or Business Associate's compliance with the Security Rule.
- (d) Business Associate agrees to take all reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from any unauthorized access, use, disclosure modification or destruction of EPHI.

5. Notice and Reporting Obligations of Business Associate.

(a) Business Associate shall notify Covered Entity within twenty-one (21) days after discovery by Business Associate, any unauthorized access, use, disclosure, modification, or destruction of PHI (including any successful Security Incident) that is not

permitted by this Addendum, by applicable law, or permitted in writing by Covered Entity.

(b) Business Associate shall, as required by law, notify Covered Entity of the discovery of any Breach of Unsecured Protected Health Information. Notice must be made without any unreasonable delay and no later than twenty-one (21) days after discovery of the Breach by Business Associate.

(c) As provided for in 45 C.F.R. Sec. 164.402, Business Associate recognizes and agrees that any acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Business Associate shall assist Covered Entity in performing a risk assessment to examine whether there is a low probability that the Unsecured PHI has been compromised to determine whether a Breach has in fact occurred.

Business Associate shall cooperate with Covered Entity in furtherance of Covered Entity's Breach notification obligations under the HIPAA Requirements by:

- Identifying each individual (if known) whose Unsecured PHI has been or is reasonably believed to have been accessed, acquired, or disclosed.
- Identifying the nature of the Breach, including the date of the Breach and date of the discovery.
- Identifying the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification.
- Identifying the unauthorized person who used the PHI or to whom the disclosure was made.
- Determining whether the PHI was actually acquired or viewed.
- Identifying what corrective or investigational action Business Associate took or will take to prevent further non-permitted accesses, uses, or disclosures.
- Determining the extent to which the risk to the PHI has been or will be mitigated by Business Associate.
- Determining whether the incident falls under any of the Breach notification exceptions.

6. Permitted Uses and Disclosures by Business Associate.

(a) Agreement. Business Associate agrees to create, receive, use, disclose, maintain or transmit PHI only in a manner that is consistent with this Addendum or the HIPAA Requirements, and only in connection with providing the services identified in the Agreement. To that end, Business Associate may not use or disclose PHI in a manner that would violate the requirements of the Privacy Rule if done by Covered Entity, subject to subsections 6(b) and (c), or the minimum necessary policies and procedures of Covered Entity. Business Associate further agrees that to the extent it is carrying out one or more of the Covered Entity's obligations under the Privacy Rule (Subpart E of 45 C.F.R. Part 164), it shall comply with the requirements of the Privacy Rule that apply to the Covered Entity in

the performance of such obligations.

(b) Use for Administration of Business Associate. As permitted by the HIPAA requirements, Business Associate may use PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for 1) the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, or 2) data aggregation services relating to health care operations of the Covered Entity.

(c) Disclosure for Administration of Business Associate. As permitted by the HIPAA Requirements, Business Associate may disclose PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

7. Obligations of Covered Entity.

(a) Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

(b) Notification of Changes Regarding Individual Permission. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Notification of Restrictions to Use or Disclosure of PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.

(d) Obligations of Covered Entity with respect to a Breach of Unsecured PHI. Covered entity shall:

- Investigate any unauthorized access, use, or disclosure of Unsecured PHI.
- Perform a risk assessment to determine if there is a low probability that the PHI has been compromised
- Determine whether the incident falls under any of the HITECH Breach notification exceptions.
- Notify each Covered Entity plan member impacted by a Breach by first class mail (or by other methods applicable under law) without any unreasonable delay and no later than 60 days after discovery of the Breach. The notification will comply with the HIPAA Requirements.
- Maintain a log and submit to HHS an annual report of Breaches of Unsecured PHI that impact

fewer than 500 individuals under the time frames required by the HIPAA Requirements.

- Notify HHS in the event the Breach of Unsecured PHI impacts 500 or more individuals under the time frames required by the HIPAA Requirements.
- Notify media when required by the HIPAA Requirements.

8. Permissible Requests by Covered Entity.

Except as set forth in Section 6 of this Addendum, Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

9. Term and Termination.

(a) Term. This Addendum shall be effective as of January 1, 2021 and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon either party's knowledge of a material breach by the other party, including the breaching party engaging in a pattern of activity or practice that constitutes a material breach or violation of the breaching party's obligations under this Addendum, the non-breaching party shall either:

- i. Provide an opportunity for the breaching party to cure the breach or end the violation. If the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party, the non-breaching party shall terminate the Agreement and this Addendum;
- ii. Immediately terminate the Agreement and this Addendum if the breaching party has breached a material term of this Addendum and cure is not possible; or
- iii. If neither termination nor cure are feasible, the breaching party shall report the violation to the Secretary.

(c) Effect of Termination.

- i. Except as provided in paragraph ii. of this Section 9.c., upon termination of the services provided to Covered Entity under the Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of Business Associate Subcontractors. Business Associate shall retain no copies of the PHI.
- ii. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or

destruction of PHI is infeasible, Business Associate shall extend the protections of this Addendum and the HIPAA Requirements to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

10. **Miscellaneous.**

(a) **Regulatory References.** A reference in this Addendum to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.

(b) **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule and HIPAA.

(c) **Survival.** Business Associate's and Covered Entity's obligation to protect the privacy and security of the PHI they created, received, maintained, or transmitted in connection with services to be provided under the Agreement and this Addendum will be continuous and survive termination, cancellation, expiration, or other conclusion of this Addendum or the Agreement.

(d) **Information Systems.** If Business Associate is provided access to any Covered Entity information system or network containing any EPHI, Business Associate agrees to comply with all Covered Entity policies for access to and use of information from the information systems or network.

(e) **Interpretation.** Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the applicable provisions of the Privacy Rule and Security Rule.

(f) **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.

(g) **Miscellaneous.** The Addendum constitutes the entire agreement between the parties with respect to the subject matter contained herein, and no other representations, oral or otherwise, are binding.

EXHIBIT B

January 1, 2021 through December 31, 2021

**Schedule of Fees
and
Allied Benefit Systems, Inc.
ERISA Prohibited Transaction Class Exemption
77-9 and 84-24 (PTE 77-9 and 84-24)
Disclosure Statement**

SCHEDULE OF FEES

I. Administrative Fees

a) Medical (per employee per month)	\$ 42.00
b) PBM Coordination (per employee per month)	\$ 3.00
c) Annual Administration Fee	\$ 3,250.00

II. Allied Advocate

Allied Advocate	25% of savings
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Dialysis Claims Management Strategy (DCMS):

DCMS Savings: The administrative fee for DCMS is 25% of the first two months of the Benefit Plan savings. For in-network claims, savings constitute the difference between the PPO allowable and the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed charges and the Medicare allowable.

Catastrophic Claims Management Strategy (CCMS):

Level 1 savings: The administrative fee is 25% of the Benefit Plan's savings. For in-network claims, savings constitute the difference between the PPO allowable and the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed charges and the Medicare allowable. The administrative fee will not exceed \$3,000 per claim.

Level 2 savings: The administrative fee for Level 2 savings is based upon 25% of the Benefit Plan's savings that Claims Processor negotiates directly with the provider to accept as final payment. For in-network claims, savings constitute the difference between the PPO allowable and the agreed upon final payment amount to the provider. For out-of-network claims, savings constitute the difference between total billed charges and the agreed upon final payment amount to the provider.

Surgical Center Claims Management Strategy (SCCMS):

Level 1 savings: The administrative fee is 25% of the Benefit Plan's savings. For in-network claims, savings constitute the difference between the PPO allowable and the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed

charges and the Medicare allowable. The administrative fee will not exceed \$3,000 per claim.

Level 2 savings: The administrative fee for Level 2 savings is based upon 25% of the Benefit Plan's savings that Claims Processor negotiates directly with the provider to accept as final payment. For in-network claims, savings constitute the difference between the PPO allowable and the agreed upon final payment amount to the provider. For out-of-network claims, savings constitute the difference between total billed charges and the agreed upon final payment amount to the provider.

Ambulance Claims Management Strategy:

Level 1 savings: The administrative fee is 25% of the Benefit Plan's savings. For in-network claims, savings constitute the difference between the PPO allowable and the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed charges and the Medicare allowable. The administrative fee will not exceed \$3,000 per claim.

Level 2 savings: The administrative fee for Level 2 savings is based upon 25% of the Benefit Plan's savings that Claims Processor negotiates directly with the provider to accept as final payment. For in-network claims, savings constitute the difference between the PPO allowable and the agreed upon final payment amount to the provider. For out-of-network claims, savings constitute the difference between total billed charges and the agreed upon final payment amount to the provider.

Form CMS-1500 Claims Management Strategy:

Level 1 savings: The administrative fee is 25% of the Benefit Plan's savings. For in-network claims, savings constitute the difference between the PPO allowable and the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed charges and the Medicare allowable. The administrative fee will not exceed \$3,000 per claim.

Level 2 savings: The administrative fee for Level 2 savings is based upon 25% of the Benefit Plan's savings that Claims Processor negotiates directly with the provider to accept as final payment. For in-network claims, savings constitute the difference between the PPO allowable and the agreed upon final payment amount to the provider. For out-of-network claims, savings constitute the difference between total billed charges and the agreed upon final payment amount to the provider.

Infusion Therapy Claims Management Strategy:

Level 1 savings: The administrative fee is 25% of the Benefit Plan's savings. For in-network claims, savings constitute the difference between the PPO allowable and

the Medicare allowable. For out-of-network claims, savings constitute the difference between total billed charges and the Medicare allowable. The administrative fee will not exceed \$3,000 per claim.

Level 2 savings: The administrative fee for Level 2 savings is based upon 25% of the Benefit Plan's savings that Claims Processor negotiates directly with the provider to accept as final payment. For in-network claims, savings constitute the difference between the PPO allowable and the agreed upon final payment amount to the provider. For out-of-network claims, savings constitute the difference between total billed charges and the agreed upon final payment amount to the provider.

III. Subrogation

Subrogation Recovery Fee	<u>25% of recovery</u>
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IV. Printing

a) Summary Plan Descriptions	<u>Cost to Print + 20%</u>
b) I.D. Cards	<u>Included</u>
c) All Other Miscellaneous Printing	<u>Cost to Print + 20%</u>

V. Managed Care Fees

a) PPO Access Fee	<u>\$ 9.02</u>
b) Utilization Review Fee	<u>\$ 2.52</u>
c) Telemedicine	<u>Included</u>
d) Allied Care Solutions – Behavioral Health	<u>\$ 1.50</u>
e) Case Management	<u>\$ 130 per hour</u>
f) ECM (Enhanced Case Management)	<u>\$ 250 per hour</u>
g) Medical Review	<u>Nurse: \$136/case Physician \$266/case</u>
h) External Review Including Independent Review Organization ("IRO")	<u>Cost Per Review</u>

VI. Commission

a) Stop Loss Commission	<u>%</u>
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VII. Broker Fees

a) Broker Management Fee	<u>\$ 42.75</u>
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VIII. Recalculation of Claims

a) Recalculation constitutes the reprocessing of a claim by Claims Processor, resulting from 1) a retroactive change in Benefit Plan terms or 2) a new direction/interpretation from Employer to be applied retroactively, subsequent to the original processing of the claim	<u>\$ 15.00 per claim</u>
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In the event Employer gives notice of non-renewal to Claims Processor with less than thirty (30) days written notice prior to the end of the then current term, a fee equal to the total administrative fee charged for one (1) month shall be immediately due and owing. All other fees due and owing shall continue to be paid as billed.

Increased expenses incurred by reason of changes in the Benefit Plan, the selection of any other vendor and corresponding services, or any increase in fee from your vendor, will give the Claims Processor the right to adjust the fees effective on the date such changes are effective. Claims Processor also reserves the right to adjust fees on any date that increased expenses are incurred by reason of 1) a change imposed by any governmental entity, 2) a revised interpretation of an existing requirement, or 3) the enactment of a new law or regulation. Any tax, penalty or fee assessed against the Employer or Claims Processor as either a direct or indirect result of the existence and/or administration of the Benefit Plan will be the sole responsibility of the Employer to pay. The fee adjustments referenced above will be limited to the increased expenses incurred solely as a result of the reason for the adjustments, and whenever reasonably possible, the Employer will be provided 30 days written notice prior to the adjustments.

The fees are also subject to change by Claims Processor as of the anniversary date of each year during the continuation of the Agreement, as well as by reason of a greater than 15% change in enrollment at any time from the Effective Date of this Agreement. Fees charged by other vendors are subject to change based on the terms of their agreements.

If Employer fails to pay any amounts owed to the Claims Processor within 30 days after such amounts are due, the Claims Processor may offset such amounts against any amounts owed by, or payable from, the Claims Processor to Employer.

DISCLOSURE STATEMENT

I. Introduction

Allied Benefit Systems, Inc. ("Allied") is a third party administrator providing services to the City of Villa Rica Employee Benefits Plan. PTE 77-9 and 84-24, as issued by the Internal Revenue Service and the U.S. Department of Labor, permit the receipt of reasonable compensation by certain enumerated interested parties, including third party administrators and brokers, for services rendered in connection with the sale of insurance contracts if proper disclosure is made and the transaction is approved by the appropriate independent plan fiduciaries. PTE 77-9 and 84-24 require that the transaction be at arms length and in the best interests of the plan participants. This Disclosure Statement serves to satisfy the disclosure requirement of PTE 77-9 and 84-24. This information is provided on the condition that it be held in confidence by the Employer.

- A. Employer: City of Villa Rica
- B. Plan name: City of Villa Rica Employee Benefits Plan
- C. Plan administrator and plan fiduciary: City of Villa Rica
- D. Stop-loss insurance carrier: To Be Determined
- E. Pharmacy Benefit Manager: US-Rx Care
- F. Preferred Provider Organization: PHCS
- G. Utilization Review/Case Management/Medical Review Vendor: American Health Holding, Inc.
- H. Broker/Consultant Name: Strongside Solutions

II. Affiliation

Allied is an independently owned third party administrator. Allied is not affiliated with any stop-loss or life insurance carrier, including the carriers mentioned above, or the other vendors mentioned above. Allied is not limited by any agreement with such carriers or vendors in its ability to recommend insurance contracts or services. Allied's services to the Plan are purely ministerial in nature and shall be performed, without any discretionary authority or control, within the framework established by the employer. Allied is not the plan fiduciary, trustee or plan administrator for the Plan. The plan administrator and plan fiduciary referenced above retain the exclusive discretionary authority and control to manage the Plan and the disposition of its assets, to establish plan benefit conditions and procedures, and to review the application of such policies and conditions.

III. Commissions and Fees

The commissions, expressed as a percentage of the gross annual premium, and fees paid to Allied, the broker and/or consultant, and other vendors are referenced above.

Allied may receive compensation for the services provided in 2(m) of the Agreement in the form of amounts added to the net fee charged by other vendors. Allied may also receive a production bonus from any of the entities referenced in section (I) of this Disclosure Statement, or rebates from the pharmacy benefit manager, based on Allied's volume of business with these vendors. Allied may receive from a financial institution, payment vendor or other repricing vendors, compensating balance credit or interest for funds held on deposit or other incentive payments.

IV. Acknowledgement and Approval

City of Villa Rica, the plan fiduciary and plan administrator of the City of Villa Rica Employee Benefit Plan: (1) acknowledges receipt of the foregoing and represents that it has read and understands the foregoing; (2) on behalf of the Plan, approves the purchase of the insurance and other related products, the receipt of the sales commissions, and an execution of the administrative service agreement with Allied; (3) acknowledges it will not receive directly or indirectly any compensation or consideration from any party dealing with the Plan in connection with the matters described above; and (4) acknowledges it will maintain the information in this Disclosure Statement in confidence and will not disclose this information to any other party, except the Internal Revenue Service or the U.S. Department of Labor, without the prior written consent of Allied Benefit Systems, Inc.



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Change in Pharmacy Assistance Program

AGENDA DATE: 10/13/2020

DATE PREPARED: 10/01/2020

PREPARED BY: Stephanie Rooks

AMOUNT: NA

GL ACCOUNT #: Various department accounts

FUNDING SOURCE: General Fund

BUDGETED ITEM? Yes

PURPOSE: Change from Script Sourcing pharmacy assistance program to AngelRX pharmacy assistance program (international pharmacy).

BACKGROUND:

Currently Script Sourcing is providing Brand and Specialty medication pharmacy copay assistance to employees and plan members for the City of Villa Rica. Script Sourcing is a Boston Based vendor. Villa Rica is having to spend an inordinate amount of time coordinating communications between Script Sourcing and Villa Rica members. This is primarily due to the requirement of household financial data and direct member communications required to complete the appropriate pharmaceutical forms for filing for copay assistance with the drug manufacturers.

We are proposing switching to a Georgia based company Angel RX, which performs the same functions as Script Sourcing. Angel RX will be able to meet with employees directly and help facilitate the required application process while giving your employees the local personal communication and assistance. Angel RX also has an expanded formula to service our member needs. As a direct analysis, Angel RX would provide an additional \$18,000 reduction in RX costs to the City of Villa Rica.

STAFF RECOMMENDATION: Approval

IMPACT: Additional RX savings and our employees will have a local resource to help them complete the associated applications and resolution will be faster. Having a local vendor will eliminate confusion and complication.

MOTION: Make a motion to approve Angel RX as the International Pharmacy provider for the City's Health Benefit Plan, effective January, 01 2021.

Services Agreement

This Services Agreement (this "**Agreement**"), dated as of January 1, 2021 (the "**Effective Date**"), is by and between Angel Rx, LLC, a Georgia limited liability company, with offices located at 13680 Highway 9, Suite G200, Milton, Georgia 30004 ("**Service Provider**") and City of Villa Rica, a Georgia municipality, with offices located at 571 Bankhead Hwy Villa Rica GA 30180 ("**Customer**" and together with Service Provider, the "**Parties**", and each a "**Party**").

WHEREAS Service Provider has the capability and capacity to provide certain branded and specialty pharmaceutical mail order sourcing services; and

WHEREAS Customer desires to retain Service Provider to provide the said services, and Service Provider is willing to perform such services under the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Service Provider and Customer agree as follows:

1. Services. Service Provider shall provide to Customer the services (the "**Services**") set forth on Exhibit A attached hereto.

2. Service Provider Obligations. Service Provider shall:

2.1 Designate one or more persons to provide the Services; and

2.2 Maintain complete and accurate records relating to the provision of the Services under this Agreement. During the Term, upon Customer's written request, Service Provider shall provide to Customer such records in connection with the provision of the Services; provided that Customer provides Service Provider with at least five (5) business days' advance written notice.

3. Customer Obligations. Customer shall:

3.1 Designate one of its employees or agents to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement (the "**Customer Contract Manager**"), with such designation to remain in force unless and until a successor Customer Contract Manager is appointed.

3.2 Require that the Customer Contract Manager respond promptly to any reasonable requests from Service Provider for instructions, information, or approvals required by Service Provider to provide the Services.

3.3 Cooperate with Service Provider in its performance of the Services and provide access to Customer's premises, employees, contractors, and equipment as required to enable Service Provider to provide the Services. Specifically, the Customer Contract Manager shall, on Customer's behalf, provide true, correct, and complete copies of all information determined by Service Provider to be necessary or convenient to provision of the Services.

3.4 Take all steps necessary, including obtaining any required consents, to prevent Customer-caused delays in Service Provider's provision of the Services.

4. Fees and Expenses.

4.1 In consideration of the provision of the Services by the Service Provider and the rights granted to Customer under this Agreement, Customer shall pay to Service Provider fifty percent (50%) of the first \$200,000 of Savings (as hereinafter defined) realized in each calendar year, and twenty-five percent (25%) of the Savings realized in excess of \$200,000 in any calendar year. Payment to Service Provider of such fees and the reimbursement of expenses pursuant to this Section 4 shall constitute payment in full for the performance of the Services. Service Provider will deliver to Customer invoices detailing such fees as incurred, and unless such fees are paid in connection with standard claims through Customer's third party administrator, such fees will be payable within seven (7) days following receipt by the Customer of an invoice from Service Provider but in no event more than fifteen (15) days after completion of any Services. For purposes hereof, "Savings," with respect to any medication, means the difference between the lesser of:

(a) The lowest listed price for a subject medication on GoodRx.com; or

(b) The Customer's pharmacy benefit manager's list cost for the subject medication; and

the cost of the subject medication as sourced by Service Provider to or on behalf of the Customer pursuant to this Agreement.

4.2 In addition, Customer shall reimburse Service Provider for the actual cost of any medication paid for by Service Provider for or on behalf of Customer hereunder. Any such medication will be invoiced along with fees and payable by Customer along with fees.

4.3 In addition, in the event and to the extent that Service Provider incurs any costs on behalf of Customer or Customer's plan participants in connection with any custom-developed program approved by Customer, including, without limitation, any domestic or international travel programs, such costs shall be considered "Advance Costs." Customer shall reimburse Service Provider for any Advance Costs incurred by Service Provider, whether or not Customer or Customer's plan participant participates in such custom-developed program.

4.4 Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or regarding, Service Provider's income, revenues, gross receipts, personnel, or real or personal property or other assets.

4.5 Except for invoiced payments that the Customer has successfully disputed, all late payments shall bear interest at the lesser of (a) the rate of 1.5% per month and (b) the highest rate permissible under applicable law, calculated daily and compounded monthly.

Customer shall also reimburse Service Provider for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Service Provider does not waive by the exercise of any rights hereunder), Service Provider shall be entitled to suspend the provision of any Services if the Customer fails to pay any undisputed amounts when due hereunder and such failure continues for five (5) days following written notice thereof.

5. Limited Warranty and Limitation of Liability.

5.1 Service Provider warrants that it shall perform the Services:

(a) In accordance with the terms and subject to the conditions set out in this Agreement.

(b) Using personnel of commercially reasonable skill, experience, and qualifications.

(c) In a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services.

5.2 Service Provider's sole and exclusive liability and Customer's sole and exclusive remedy for breach of this warranty shall be as follows:

(a) Service Provider shall use reasonable commercial efforts to promptly cure any such breach; provided, that if Service Provider cannot cure such breach within a reasonable time after Customer's written notice of such breach, Customer may, at its option, terminate the Agreement by serving written notice of termination in accordance with Section 8.2.

5.3 SERVICE PROVIDER MAKES NO WARRANTIES EXCEPT FOR THAT PROVIDED IN SECTION 5.1, ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

6. Intellectual Property. All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, services provided hereunder, as well as the format, layout, and framework of all work product and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of the Service Provider in the course of performing the Services (collectively, the "**Deliverables**") except for any data of Customer or Customer's plan participants, or customer materials shall be owned by Service Provider. Service Provider hereby grants to Customer a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Services.

7. Confidentiality. Customer and Service Provider acknowledge that they are parties to a certain Confidentiality and Non-Disclosure Agreement. The Parties acknowledge the existence and enforceability of such Confidentiality and Non-Disclosure Agreement, but agree that if and to the extent that such Confidentiality and Non-Disclosure Agreement is determined to be unenforceable for any reason, then the remainder of this paragraph shall control. From time to time during the Term of this Agreement, either Party (as the "**Disclosing Party**") may disclose or make available to the other Party (as the "**Receiving Party**"), non-public, proprietary, and confidential information of Disclosing Party that, if disclosed in writing or other tangible form is clearly labeled as "confidential," or if disclosed orally, is reasonably expected by the receiving party to be confidential ("**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this Section 7; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party's possession prior to Disclosing Party's disclosure hereunder; or (d) was or is independently developed by Receiving Party without using any Confidential Information. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's Group who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement.

If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy. For purposes of this Section 7 only, Receiving Party's Group shall mean the Receiving Party's affiliates and its or their employees, officers, directors, shareholders, partners, members, managers, agents, independent contractors, service providers, sublicensees, subcontractors, attorneys, accountants, and financial advisors.

8. Term, Termination, and Survival.

8.1 This Agreement shall commence as of the Effective Date and shall continue thereafter unless sooner terminated pursuant to Section 8.2 or Section 8.3.

8.2 Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**") if the Defaulting Party:

- (a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach;

(b) Becomes insolvent or admits its inability to pay its debts generally as they become due;

(c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven business days or is not dismissed or vacated within 45 days after filing;

(d) Is dissolved or liquidated or takes any corporate action for such purpose;

(e) Makes a general assignment for the benefit of creditors; or

(f) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

8.3 Notwithstanding anything to the contrary in Section 8.2(a), Service Provider may terminate this Agreement on written notice if Customer fails to pay any amount when due hereunder: (a) and such failure continues for five (5) days after Customer's receipt of written notice of nonpayment; or (b) more than three (3) times in any twelve (12) month period;

8.4 Either Party may terminate this Agreement upon not fewer than ninety (90) days' prior written notice.

8.5 The rights and obligations of the Parties set forth in this Section 8.4 and in Sections 5-9, and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement. In addition, the provisions of Section 4 above shall survive for so long as Customer or Customer's plan participant continues to receive benefits under this Agreement.

9. Limitation of Liability.

9.1 IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

9.2 IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID TO SERVICE

PROVIDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10. Entire Agreement. This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

11. Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "**Notice**", and with the correlative meaning "**Notify**") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 11.

Notice to Customer:

City of Villa Rica
571 Bankhead Hwy
Villa Rica, GA 30180
Attention: Tom Barber, City Manager

Notice to Service Provider:

Angel Rx, LLC
13680 Hwy 9
Suite G200
Milton, Georgia 30004
Attention: Wendell Strickland, Manager

12. Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the court may modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13. Amendments. No amendment to or modification of or rescission, termination or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination or discharge of this Agreement and signed by each Party.

14. Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right,

remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. Assignment. Customer shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section 15 shall be null and void. No assignment or delegation shall relieve the Customer of any of its obligations under this Agreement.

16. Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

17. Relationship of the Parties. The relationship between the Parties is that of independent contractors. The details of the method and manner for performance of the Services by Service Provider shall be under its own control, Customer being interested only in the results thereof. The Service Provider shall be solely responsible for supervising, controlling and directing the details and manner of the completion of the Services. Nothing in this Agreement shall give the Customer the right to instruct, supervise, control, or direct the details and manner of the completion of the Services. The Services must meet the Customer's final approval and shall be subject to the Customer's general right of inspection throughout the performance of the Services and to secure satisfactory final completion. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

18. Choice of Law. This Agreement and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Georgia, United States of America, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Georgia.

19. Choice of Forum. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement, and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than the federal and state courts having jurisdiction over Fulton County, Georgia, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation or proceeding only in. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

20. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING

EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

21. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 111, a signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

22. Force Majeure. The Service Provider shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Service Provider including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of sixty (60) days, Customer shall be entitled to give notice in writing to Service Provider to terminate this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date by their respective duly authorized officers.

City of Villa Rica

By_____

Name:_____

Title: _____

Angel Rx, LLC

By_____

Name: Wendell Strickland

Title: Manager

EXHIBIT A

SERVICES

Assist Customer with Angel Rx program implementation including:

- ❖ Plan participant education
- ❖ Customer education
- ❖ Plan participant engagement
- ❖ Plan participant satisfaction
- ❖ Prescription compliance
- ❖ Onsite, online, and social media promotion
- ❖ Quarterly formulary and prescription pricing audit and analysis
- ❖ Plan design
- ❖ Such other related activities as may be agreed by Customer and Service Provider from time to time (depending upon activities, additional fees may apply)



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Amendment to Main Street Advisory Board Bylaws

AGENDA DATE: 10.8.20

DATE PREPARED: 9.18.20

PREPARED BY: Janet Chumley

AMOUNT: N/A

GL ACCOUNT #: N/A

FUNDING SOURCE: None

BUDGETED ITEM? N/A

PURPOSE: To amend the current bylaws for the Main Street Advisory Board. The last updated amendment to the bylaws was December 11, 2018. The bylaws were *originally* adopted by the Main Street Advisory Board in September 22, 2015.

BACKGROUND: Periodically the Main Street Advisory Board will review the bylaws and make occasional revisions or amendments. The board reviewed and moved to approved the amended bylaws in the August 21, 2020 monthly board meeting.

Attached are the bylaws that were amended and approved at the December 11, 2018 City Council meeting as well as the proposed amendment changes that were reviewed and approved by the Main Street Advisory Board in the August 21, 2020 monthly board meeting. Proposed amendments highlighted in red are as follows:

1. Length of terms for board members
2. Removal of board members

STAFF RECOMMENDATION: Staff recommends the proposed amended bylaws voted on by the Main Street Advisory Board be approved by city council.

IMPACT: The amended bylaws will more accurately reflect the community's understanding of the Main Street Advisory Board and the standards it operates under.

MOTION: I make a motion that we approve the proposed amended bylaws for the Main Street Advisory Board.

City of Villa Rica

Main Street Advisory Board

Bylaws

Adopted September 22, 2015

ARTICLE I

Name

The name of the organization shall be the City of Villa Rica Main Street Advisory Board (hereinafter the “Advisory Board” or the “Board”).

ARTICLE II

Purposes

Section 2.1 Advisory Board Purpose

The Advisory Board and its committees (the “Main Street Committees” or “Committee”) work with the Main Street Manager (the “Manager”) to carry out the goals of the Main Street Program (the “Program”). The Advisory Board does not handle the day-to-day affairs of the Program, but provides additional insights, input, strategy recommendations, and policy to support the Program. The Advisory Board will assist the Main Street Manager in a number of ways including the following: (1) promote and market downtown as a desirable location for businesses, and aim to achieve full use and occupancy of the downtown district; (2) fund raising for the Program and for special projects, including identifying and utilizing local, state, federal, and private sources including grants and contributions; (3) make policy recommendations and assist in strategic planning and goal setting for the Program; (4) encourage appropriate high-quality design in the maintenance, renovation and re-use of buildings in the Villa Rica Main Street Central Business District (as defined herein); (5) sponsor events and promotional activities in the Villa Rica Main Street Central Business District that foster a sense of community, encourage tourism, and promotes business development; (6) recruiting dedicated volunteers and board members; (7) advocate for the Program and ensure that the Program is carrying out its mission and vision; and such other assistance as the Advisory Board and the Main Street Manager deem necessary.

Section 2.2 Scope of Power

The Advisory Board shall have no right, power or authority to obligate or bind the City of Villa Rica (the “City”) in any manner whatsoever. The Advisory Board is not a governing board but is advisory in nature with no power of authority over day-to-day operations of the Program or the Main Street Manager.

Section 2.3 Main Street Program Purpose

The Program is sponsored and governed by the City, and is a division of the City's Community Development Department. The Program works to maintain a strong, viable, and broad-based downtown revitalization program that embraces the implementation of best downtown development practices in accordance to the Georgia Main Street Program and the National Main Street Center's guiding principles and Main Street Approach.

ARTICLE III Boundaries

The map below indicates the boundaries of the Villa Rica Main Street Central Business District (the "Central Business District"). The primary focus area of the Central Business District will be defined by portions of South Carroll Road, Main Street, East Montgomery Street, West Montgomery Street, South Candler, North Candler Street, North Avenue, West Wilson Street, East Wilson Street, Westview Drive, Temple Street, South Carroll, North Carroll, and West Bankhead Highway as shown on the Central Business District map, attached hereto at Appendix A and incorporated herein by this express reference.

ARTICLE IV Advisory Board Members

Section 4.1 Members

The Advisory Board shall consist of seven (7) members ("Board Members") solicited by current Board Members and the Main Street Manager, with official appointment made by City Council. Board Members will serve staggered terms and shall be appointed for one-, two-, and three-year terms, respectively. No Board Member shall serve more than two consecutive three-year terms without stepping down from serving for at least one year. Appointments to the Board for the upcoming calendar year shall be made at a meeting in November, or at some other time, as approved by a majority vote of the Board, to ensure that official appointment by City Council has been made by the Board's first meeting of the next calendar year. All Board Members shall commit to working, volunteering, or participating, on behalf of the Program, in at least two of the Program's sponsored events.

Section 4.2 Qualifications of Advisory Board Members

Persons selected for appointment to the Advisory Board by current Board Members and/or the Main Street Manager shall have interests and/or experience in economic development of downtown areas or in historic preservation, and be willing to actively participate. The make-up of the Advisory Board should strive for diversity, seeking representation from public and private groups. There will not be a majority of any occupation on the Advisory Board. Board Members must be of sound mind and of legal age to serve. The composition of the background, experiences, and occupations of the Board Member's comprising the Advisory Board shall be consistent with the Georgia Main Street Annual Standards of Accreditation.

Section 4.3 Resignation

A Board Member wishing to resign from the Advisory Board shall submit a letter of resignation to the Main Street Manager, Board President, or Vice President. Upon Receipt of a Board

Member's resignation, the Main Street Manager, Board President, or Vice President must present the Board Member's resignation to the entire Advisory Board. A Board Member resigning from the Board must expressly state whether the resignation is with immediate effect or provide a date the resignation will take effect. If a Board Member submits his/her resignation, whether to be effective immediately or at a future date, a Vacancy occurs on the tenth day after the date of its receipt by the Advisory Board. The Advisory Board may not refuse to accept a resignation, however during the 10-day waiting period; the resigning Board Member may rescind his/her resignation with a majority of vote of the Board Members. The Board Member who initially sought resignation shall not be permitted to participate in the vote, or the discussion preceding the vote, considering whether that Board Member's desire to rescind his/her resignation will be permitted.

Section 4.4 Vacancies

If a Vacancy occurs on the Advisory Board because of death, resignation, refusal to serve, or for a reason other than the normal expiration of a term of office; the Board shall propose a new candidate to fill the Vacancy by majority vote of the remaining Board Members. The candidate shall become a Board Member with the approval of the City Council. The Board Member filling such Vacancy shall fill the unexpired term of his/her predecessor.

ARTICLE V Officers

Section 5.1 Officers and Elections

The officers of the Advisory Board ("Board Officers") shall consist of a President, Vice-President, Treasurer, and Secretary. Board Officers shall be elected by a majority vote of the Advisory Board at the first regular meeting after the annual City Council Advisory Board appointment process.

No person shall be elected President who has not served at least one year on the Advisory Board.

Section 5.2 Terms of Office

Board Officers shall serve for elected annually.

Section 5.3 Board Officer Vacancies

In the event of a vacancy in the office of President, the Vice President shall serve as President.

In the event of a vacancy in the offices of Vice President, Treasurer, or Secretary the Advisory Board shall elect a replacement and successor Board Officer by majority vote of Board Members at the next regularly scheduled meeting, or as soon as reasonably practical for the unexpired term.

If possible, the Board Officer creating the vacancy shall continue to serve until the vacancy is filled.

Section 5.4 Duties

- A. President, whose duties include chairing all meetings of the Board, acting as a representative of the Board in functions requiring such representation, and acting as the Board liaison to support the Main Street Manager in facilitating the goals of the Program.
- B. Vice President, who shall assume all duties outlined for the President in his/her absence.
- C. Treasurer, who shall keep record of all income and expenses for the Main Street budget and the Main Street fundraising account. At the Annual Meeting, and at regular Advisory Board meetings, the Treasurer will provide a report and summary statement on the financial affairs of the Program.
- D. Secretary, whose duties include recording the minutes at meetings of the Board, presenting said minutes to the Board for review and acceptance by the Board, and maintaining Program records that result from Board meetings. The Secretary shall mail copies of the Minutes of each membership meeting to all members within 15 days from the conclusion of each meeting.
- E. Temporary Officers. In cases of absence or disability of an Officer of the Program, the remaining Officers may vote to delegate the powers and duties of such Officer to any other Officer or Member of the Board.
- F. Removal. Officers who fail to fulfill their duties and have three consecutive unexcused absences from regular Board meetings may be removed from office by a vote of the Board.

ARTICLE VI Meetings

Section 6.1 Regular Meetings

Regular meetings of the Board shall be held not less than eight (8) times during a calendar year, unless the Main Street Manager, in conjunction with the Board President, deems necessary by any or all parties. Meetings of the Advisory Board shall be held in the City Hall conference room, located at 571 W. Bankhead Hwy., Villa Rica, GA 30180, or such other place as designated by the Advisory Board. Regular meetings shall be held on the third Friday of the month, unless such day falls on a city observed holiday, in which event the regular meeting for that month shall be postponed to the following month at the same hour and place.

Section 6.2 Agenda

Items may be placed on the agenda by the Main Street Manager, Board President, or at the request of a Board Member. The party (or individual) requesting the agenda item will be responsible for the initial presentation at the meeting. Items included on the agenda must be submitted to the Main Street Manager no later than one week before the Advisory Board meeting at which the agenda item will be considered. Agenda packets for regular meetings will be provided to the Members in advance of the scheduled Board meeting. Agenda packets will contain the posted agenda, typed minutes of the last meeting, and any other necessary documents.

Section 6.3 Special Called Meetings

The Board President, Main Street Manager, or at least a quorum of the Advisory Board may, when deemed necessary, call special meetings of the Advisory Board.

Section 6.4 Quorum

A quorum is required for the purpose of transacting all business of the Board at any regularly scheduled meeting of the Main Street Advisory Board. No action of the Advisory Board or any individual Board Member shall be an official action of the Program unless approved by a majority of Board Members present at an official board meeting. A quorum shall consist of four (4) voting Board Members. If a quorum is not present or represented at any meeting of the Advisory Board, a majority of the Board Members entitled to vote thereat, present in person, may adjourn the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 6.5 Call to Order

Advisory Board meetings will be called to order by the Board President, or if absent, by the Vice President. In the absence of both the President and Vice President, the meeting shall be called to order by the Secretary, and a temporary President shall be elected to preside over the meeting.

Section 6.6 Notice

Written or electronic notice of every meeting of the Board stating the place, date, and hour of the meeting, shall be given either personally or by mail to each member not less than five (5) days before the date of the meeting.

Section 6.7 Attendance

Board Members are required to attend Board meetings and be prepared to discuss the issues on the agenda. A Member shall notify the Main Street Manager or Board President if the Member is unable to attend a meeting. Any Board Member missing three regularly scheduled meetings shall be contacted by the President, or his/her designee, regarding the absentee Board Member's desire to continue to serve. In the event a Board Member misses more than four regularly scheduled meetings during a calendar year, they shall be automatically removed from the Board and his/her position shall be filled pursuant to Section 4.4 of these Bylaws.

Section 6.8 Voting

When a quorum is present at any meeting, the vote of a majority of the Board Members present in person decides any question brought before such meeting, unless the question is one upon which the express provisions of law or these Bylaws require a different vote, in which case such express provisions shall govern and control the decision of the question. Each Board Member shall at every meeting of the Advisory Board be entitled to one vote. No Board Member may vote by proxy.

The Main Street Manager shall be a non-voting member of the Advisory Board and the Manager, or his/her designee, shall be present at all meetings of the Advisory Board.

Section 6.9 Electronic Voting

Board Members, by providing an e-mail address to receive electronic transmission, consent to electronic transmission of information (including meeting notices) and to conduct votes via electronic transmission. Such votes are considered final action on the matter if there is unanimous consent of the Advisory Board. After two successive failed attempts to contact a Board Member by electronic means, consent by that Board Member will be considered to be revoked.

Section 6.10 Public Participation

In accordance with City Policy, the public is welcome and invited to attend Board meetings and to speak on any item on the agenda. A person wishing to address the Board must sign up to speak in accordance with the policy of the City Council concerning participation and general public comment at public meetings. Sign-up sheets will be available and should be submitted to the Main Street Manager prior to the start of the meeting. If any written materials are to be provided to the Board, a copy shall also be provided to the Main Street Manager for inclusion in the minutes of the meeting. Speakers shall be allowed a maximum of three (3) minutes to speak, but may take up to six (6) minutes if another individual who signs up to speak yields the time to the speaker. A person who disrupts the meeting may be asked to leave and be removed.

Section 6.11 Open Meetings

Public notice of Board meetings shall be provided in accordance with the provisions of the Georgia Open Meetings Act. All Board meetings and deliberations shall be open to the public, except for properly noticed closed session matters, and shall be conducted in accordance with the provisions of the Georgia Open Meetings Act.

Section 6.12 Closed Sessions

The Board may conduct closed sessions as allowed by law, on properly noticed closed session matters, such as consultation with attorney on legal matters, deliberation regarding the value of real property, competitive utility matters, and economic development negotiations. A certified agenda shall be made of all closed sessions of Board meetings.

Section 6.13 Board Orientation

All new members of the Main Street Advisory Board shall participate in an orientation program familiarizing themselves with the goals and objectives of the program and with their responsibilities.

Section 6.14 Annual Meeting

An annual meeting of the Board shall be held at the first regular meeting of the new calendar year for the purposes of electing officers and transacting such other business.

ARTICLE VII Reports to City Council

The Advisory Board shall meet with City Council, as requested, to provide reports and to determine how the Board may best serve the City of Villa Rica. Board Reports will be made at a regularly scheduled Council meeting. The Board must submit an annual report to City Council each year.

ARTICLE VIII Committees

Section 8.1 Structure

In an effort to revitalize the downtown district through historic preservation-based economic development, the Program will utilize the Main Street Four-Point Approach, and other applicable guiding principles and Main Street Approach of the National Main Street Center and Georgia Main Street Program, to leverage success. The Program will have the following standing Main Street Committees:

- A. Organization Committee. The Organization Committee plays a key role in keeping the board, committees, and program-of-work in good shape by attracting people and money to the organization. The City of Villa Rica Main Street Advisory Board will function as the Organization Committee.
- B. Economic Development Committee. The Economic Development Committee promotes the interests of downtown businesses and assists the Main Street Manager in recruiting desirable businesses to the Central Business District.
- C. Design Committee. The City of Villa Rica Historic Preservation Board will function as the Design Committee to protect and improve Villa Rica's built and natural environment through historic preservation.
- D. Promotion Committee. The Promotion Committee fosters good will among residents and attracts tourists by participating in and coordinating special events and promotional activities. The Committee also assists in the implementation of marketing initiatives for the district.

The Program shall also have other committees and ad hoc bodies as the Advisory Board and Main Street Manager may from time to time establish in accordance with the Georgia Main Street Program and the National Main Street Center's guiding principles and Main Street Approach. Main Street Committees must submit a written report to the Main Street Manager one week prior to each regularly scheduled Board meeting. Main Street Committees must also submit minutes of each meeting to the Main Street Manager.

Section 8.2 Committee Members

Main Street Committees shall consist of not less than three (3) members, and shall have as chairperson who shall be responsible for directing and coordinating the affairs of the Main Street Committee. At least one Board member must be represented on each Main Street Committee. The terms of the Main Street Committees shall be for one year.

Main Street Committees will be appointed by the Main Street Manager and Board President with the approval of the Advisory Board. Main Street Committees need not be limited to the Program's downtown businesses, but can have representatives from other relevant areas of the community.

ARTICLE IX

Main Street Program Manager

The Main Street Manager is an employee of the City that reports directly to Director of Economic Development as illustrated in the Main Street Organizational Chart attached hereto as Appendix B and is incorporated herein by this express reference. The Main Street Manager shall manage the daily operations of the Program and shall be responsible for the coordination and the implementation of the Program's policies and projects and such other duties as may be required. The Main Street Manager shall serve as a liaison between the Advisory Board and Main Street Committees. The office of the Main Street Manager shall be located within the downtown district in accordance to Georgia Department of Community Affairs guidelines. The Manager will maintain information regarding the revitalization in the Central Business District.

ARTICLE X

Finances and General Provisions

Section 10.1 Fiscal Year.

The fiscal year of the Program will begin on the first day of January, and end on the last day of December of each year. On the first year of creation, the fiscal year will begin upon creation and end on the last day of December.

Section 10.2 Funds.

The Advisory Board and the Board Members have no authority to expend funds or to incur or make an obligation on behalf of the City unless authorized and approved by City Council. Board Members may be reimbursed for expenses authorized and approved by City Council and the Advisory Board. The Advisory Board shall have the authority to administer the monies from the Main Street Fundraising Account with the support of the City. The Advisory Board is required to submit a report of all fundraising incoming and spending to the Main Street Manager and the City Council in a timely manner.

Section 10.3 Year-End Financial Statement.

Within two months after the close of the fiscal year, the Treasurer will prepare a year-end financial statement showing in reasonable detail the source and application of the previous year's funds and the financial condition of the Program. This statement will be presented to the Advisory Board at a regular Board meeting. All finances, accounts, and monies of the Program will be audited by, and in coordination, with the City.

ARTICLE XI

Books and Records

Correct books of account of the activities and transactions of the Program shall be kept at the office of the Program. These shall include a minute book, which shall contain a copy of these Bylaws and all minutes of meetings of the Advisory Board, work plans, and vision and mission statements.

ARTICLE XII

Conflict of Interest

Any Board Member who has a financial, personal, or official interest in, or conflict (or appearance of a conflict) with any matter pending before the Advisory Board, of such nature that it prevents or may prevent that Board Member from acting on the matter in an impartial manner, shall disclose such conflict and the Board shall abide by the following protocol:

- A. Abstinance from Vote. When any conflict of interest is relevant to a matter requiring action by the Advisory Board, the interested person shall call it to the attention of the Board or its appropriate Committee and such person shall not vote on the matter; provided however, any Board Member disclosing a possible conflict of interest may be counted in determining the presence of a quorum at a meeting of the Advisory Board or a Committee thereof.
- B. Absence from Discussion. Unless requested to remain present during the meeting, the person having the conflict shall retire from the room in which the Advisory Board or its Committee is meeting and shall not participate in the final deliberation or decision regarding the matter under consideration. However, that person shall provide the Board or Committee with any and all relevant information.
- C. Minutes. The minutes of the meeting of the Advisory Board or one of its Committees shall reflect that the conflict of interest was disclosed and that the interested person was not present during the final discussion or vote, and did not vote. When there is doubt as to whether a conflict of interest exists, the matter shall be resolved by a vote of the Advisory Board or its Committee, excluding the person concerning whose situation the doubt has arisen.

Section 12.1 Annual Review.

A copy of this conflict of interest bylaw shall be furnished to each Board Member and Officer who is presently serving the Program, or who may hereafter become associated with the Program. This policy shall be reviewed annually for the information and guidance of Board Members, Officers, and staff members. Any new Board Members or Officers shall be advised of this policy upon undertaking the duties of such office.

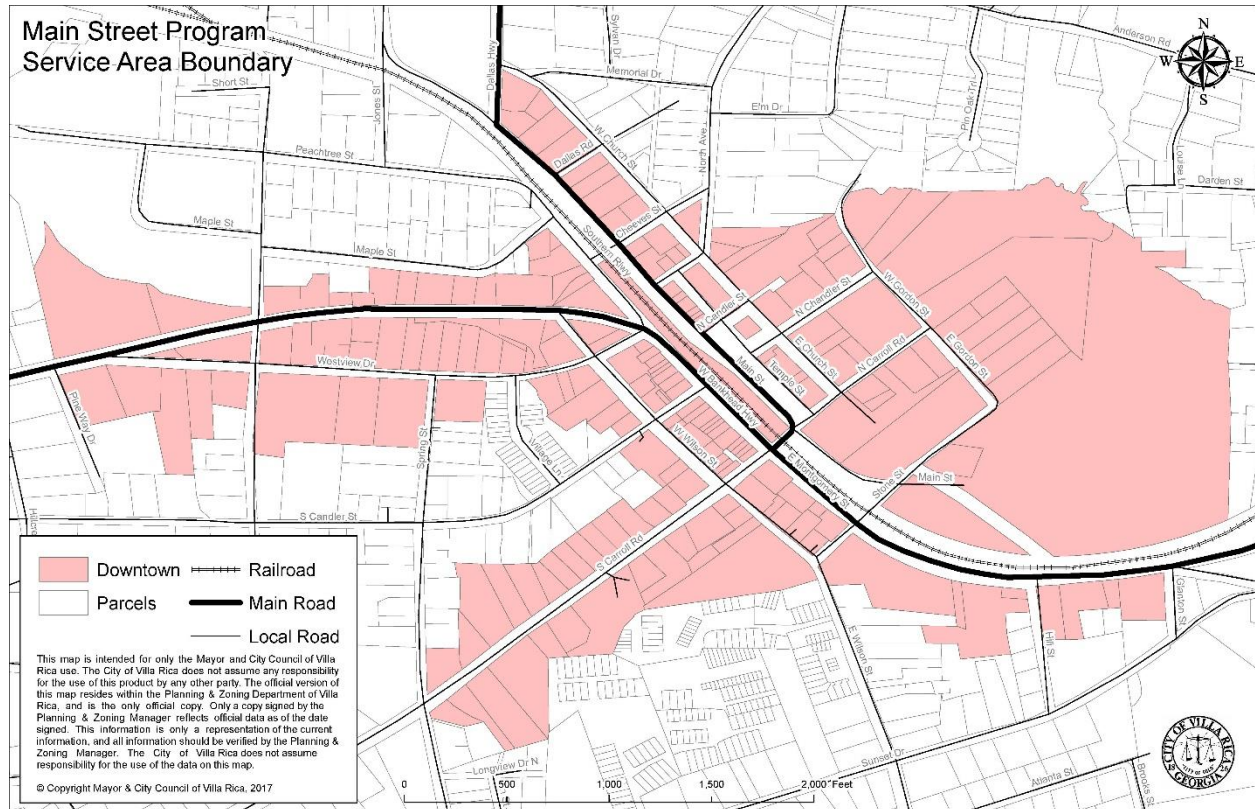
ARTICLE XIII

Amendments

The Advisory Board shall have the power to alter, amend, or repeal the Bylaws or adopt new Bylaws by a quorum vote at a duly called meeting of the Board. However, the Board's proposed amendments to the Bylaws must be approved by City Council. Bylaw amendments are not effective until approved by City Council.

Appendix A

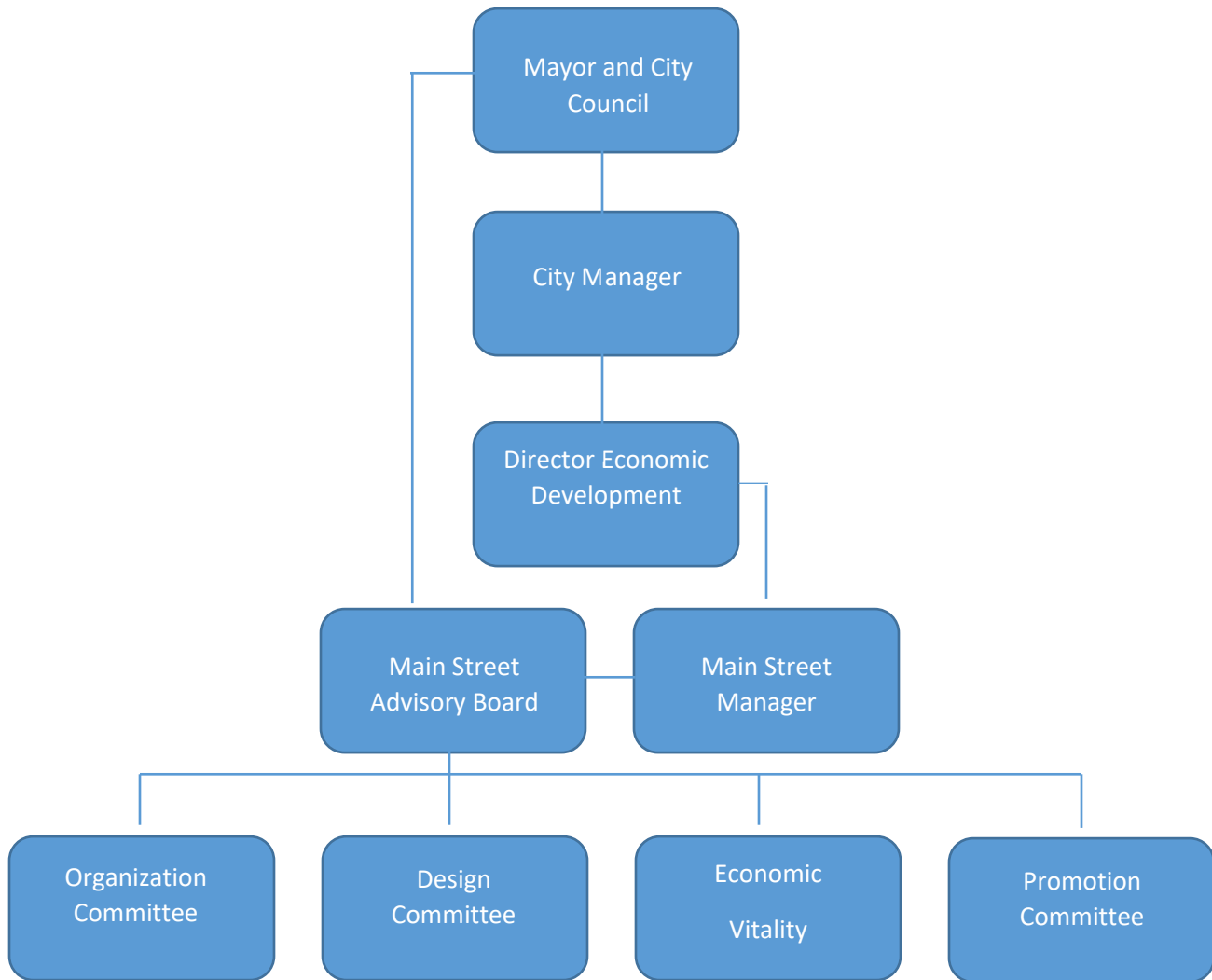
Villa Rica Main Street Downtown Central Business District



Appendix B

Main Street Villa Rica Organizational Chart

City Sponsored Program



City of Villa Rica

Main Street Advisory Board

Bylaws

Adopted September 22, 2015

ARTICLE I

Name

The name of the organization shall be the City of Villa Rica Main Street Advisory Board (hereinafter the “Advisory Board” or the “Board”).

ARTICLE II

Purposes

Section 2.1 Advisory Board Purpose

The Advisory Board and its committees (the “Main Street Committees” or “Committee”) work with the Main Street Manager (the “Manager”) to carry out the goals of the Main Street Program (the “Program”). The Advisory Board does not handle the day-to-day affairs of the Program, but provides additional insights, input, strategy recommendations, and policy to support the Program. The Advisory Board will assist the Main Street Manager in a number of ways including the following: (1) promote and market downtown as a desirable location for businesses, and aim to achieve full use and occupancy of the downtown district; (2) fund raising for the Program and for special projects, including identifying and utilizing local, state, federal, and private sources including grants and contributions; (3) make policy recommendations and assist in strategic planning and goal setting for the Program; (4) encourage appropriate high-quality design in the maintenance, renovation and re-use of buildings in the Villa Rica Main Street Central Business District (as defined herein); (5) sponsor events and promotional activities in the Villa Rica Main Street Central Business District that foster a sense of community, encourage tourism, and promotes business development; (6) recruiting dedicated volunteers and board members; (7) advocate for the Program and ensure that the Program is carrying out its mission and vision; and such other assistance as the Advisory Board and the Main Street Manager deem necessary.

Section 2.2 Scope of Power

The Advisory Board shall have no right, power or authority to obligate or bind the City of Villa Rica (the “City”) in any manner whatsoever. The Advisory Board is not a governing board but is advisory in nature with no power of authority over day-to-day operations of the Program or the Main Street Manager.

Section 2.3 Main Street Program Purpose

The Program is sponsored and governed by the City, and is a division of the City's Community Development Department. The Program works to maintain a strong, viable, and broad-based downtown revitalization program that embraces the implementation of best downtown development practices in accordance to the Georgia Main Street Program and the National Main Street Center's guiding principles and Main Street Approach.

ARTICLE III Boundaries

The map below indicates the boundaries of the Villa Rica Main Street Central Business District (the "Central Business District"). The primary focus area of the Central Business District will be defined by portions of South Carroll Road, Main Street, East Montgomery Street, West Montgomery Street, South Candler, North Candler Street, North Avenue, West Wilson Street, East Wilson Street, Westview Drive, Temple Street, South Carroll, North Carroll, and West Bankhead Highway as shown on the Central Business District map, attached hereto at Appendix A and incorporated herein by this express reference.

ARTICLE IV Advisory Board Members

Section 4.1 Members

The Advisory Board shall consist of seven (7) members ("Board Members") solicited by current Board Members and the Main Street Manager, with official appointment made by City Council. Board Members will serve staggered terms and shall be appointed for one-, two-, and three-year terms, respectively. **Amendment: Board members may serve consecutive terms if recommended by the board and approved by the city council.** ~~No Board Member shall serve more than two consecutive three-year terms without stepping down from serving for at least one year.~~ Appointments to the Board for the upcoming calendar year shall be made at a meeting in November, or at some other time, as approved by a majority vote of the Board, to ensure that official appointment by City Council has been made by the Board's first meeting of the next calendar year. All Board Members shall commit to working, volunteering, or participating, on behalf of the Program, in at least two of the Program's sponsored events.

Section 4.2 Qualifications of Advisory Board Members

Persons selected for appointment to the Advisory Board by current Board Members and/or the Main Street Manager shall have interests and/or experience in economic development of downtown areas or in historic preservation, and be willing to actively participate. The make-up of the Advisory Board should strive for diversity, seeking representation from public and private groups. There will not be a majority of any occupation on the Advisory Board. Board Members must be of sound mind and of legal age to serve. The composition of the background, experiences, and occupations of the Board Member's comprising the Advisory Board shall be consistent with the Georgia Main Street Annual Standards of Accreditation.

Section 4.3 Resignation

A Board Member wishing to resign from the Advisory Board shall submit a letter of resignation to the Main Street Manager, Board President, or Vice President. Upon Receipt of a Board Member's resignation, the Main Street Manager, Board President, or Vice President must present the Board Member's resignation to the entire Advisory Board. A Board Member resigning from the Board must expressly state whether the resignation is with immediate effect or provide a date the resignation will take effect. If a Board Member submits his/her resignation, whether to be effective immediately or at a future date, a Vacancy occurs on the tenth day after the date of its receipt by the Advisory Board. The Advisory Board may not refuse to accept a resignation, however during the 10-day waiting period; the resigning Board Member may rescind his/her resignation with a majority of vote of the Board Members. The Board Member who initially sought resignation shall not be permitted to participate in the vote, or the discussion preceding the vote, considering whether that Board Member's desire to rescind his/her resignation will be permitted.

Section 4.4 Vacancies

If a Vacancy occurs on the Advisory Board because of death, resignation, refusal to serve, or for a reason other than the normal expiration of a term of office; the Board shall propose a new candidate to fill the Vacancy by majority vote of the remaining Board Members. The candidate shall become a Board Member with the approval of the City Council. The Board Member filling such Vacancy shall fill the unexpired term of his/her predecessor.

ARTICLE V Officers

Section 5.1 Officers and Elections

The officers of the Advisory Board ("Board Officers") shall consist of a President, Vice-President, Treasurer, and Secretary. Board Officers shall be elected by a majority vote of the Advisory Board at the first regular meeting after the annual City Council Advisory Board appointment process.

No person shall be elected President who has not served at least one year on the Advisory Board.

Section 5.2 Terms of Office

Board Officers shall serve for elected annually.

Section 5.3 Board Officer Vacancies

In the event of a vacancy in the office of President, the Vice President shall serve as President.

In the event of a vacancy in the offices of Vice President, Treasurer, or Secretary the Advisory Board shall elect a replacement and successor Board Officer by majority vote of Board Members at the next regularly scheduled meeting, or as soon as reasonably practical for the unexpired term.

If possible, the Board Officer creating the vacancy shall continue to serve until the vacancy is filled.

Section 5.4 Duties

- A. President, whose duties include chairing all meetings of the Board, acting as a representative of the Board in functions requiring such representation, and acting as the Board liaison to support the Main Street Manager in facilitating the goals of the Program.
- B. Vice President, who shall assume all duties outlined for the President in his/her absence.
- C. Treasurer, who shall keep record of all income and expenses for the Main Street budget and the Main Street fundraising account. At the Annual Meeting, and at regular Advisory Board meetings, the Treasurer will provide a report and summary statement on the financial affairs of the Program.
- D. Secretary, whose duties include recording the minutes at meetings of the Board, presenting said minutes to the Board for review and acceptance by the Board, and maintaining Program records that result from Board meetings. The Secretary shall mail copies of the Minutes of each membership meeting to all members within 15 days from the conclusion of each meeting.
- E. Temporary Officers. In cases of absence or disability of an Officer of the Program, the remaining Officers may vote to delegate the powers and duties of such Officer to any other Officer or Member of the Board.
- F. Removal. Officers who fail to fulfill their duties and have three consecutive unexcused absences from regular Board meetings may be removed from office by a vote of the Board. **Amendment: Officers may also be removed upon motion by any board member at any time. In this event, the board member(s) moving for a motion to remove a board member and any board member(s) seconding said motion shall state his/her reasons for motioning approval and the board member who is the subject of said motion shall have an opportunity to respond. The motion of removal shall be granted upon majority of vote of the 7-member board and with approval of City Council.**

ARTICLE VI Meetings

Section 6.1 Regular Meetings

Regular meetings of the Board shall be held not less than eight (8) times during a calendar year, unless the Main Street Manager, in conjunction with the Board President, deems necessary by any or all parties. Meetings of the Advisory Board shall be held in the City Hall conference room, located at 571 W. Bankhead Hwy., Villa Rica, GA 30180, or such other place as designated by the Advisory Board. Regular meetings shall be held on the third Friday of the month, unless such day falls on a city observed holiday, in which event the regular meeting for that month shall be postponed to the following month at the same hour and place.

Section 6.2 Agenda

Items may be placed on the agenda by the Main Street Manager, Board President, or at the request of a Board Member. The party (or individual) requesting the agenda item will be responsible for the initial presentation at the meeting. Items included on the agenda must be submitted to the Main Street Manager no later than one week before the Advisory Board meeting at which the agenda item will be considered. Agenda packets for regular meetings will be provided to the Members in advance of the scheduled Board meeting. Agenda packets will contain the posted agenda, typed minutes of the last meeting, and any other necessary documents.

Section 6.3 Special Called Meetings

The Board President, Main Street Manager, or at least a quorum of the Advisory Board may, when deemed necessary, call special meetings of the Advisory Board.

Section 6.4 Quorum

A quorum is required for the purpose of transacting all business of the Board at any regularly scheduled meeting of the Main Street Advisory Board. No action of the Advisory Board or any individual Board Member shall be an official action of the Program unless approved by a majority of Board Members present at an official board meeting. A quorum shall consist of four (4) voting Board Members. If a quorum is not present or represented at any meeting of the Advisory Board, a majority of the Board Members entitled to vote thereat, present in person, may adjourn the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 6.5 Call to Order

Advisory Board meetings will be called to order by the Board President, or if absent, by the Vice President. In the absence of both the President and Vice President, the meeting shall be called to order by the Secretary, and a temporary President shall be elected to preside over the meeting.

Section 6.6 Notice

Written or electronic notice of every meeting of the Board stating the place, date, and hour of the meeting, shall be given either personally or by mail to each member not less than five (5) days before the date of the meeting.

Section 6.7 Attendance

Board Members are required to attend Board meetings and be prepared to discuss the issues on the agenda. A Member shall notify the Main Street Manager or Board President if the Member is unable to attend a meeting. Any Board Member missing three regularly scheduled meetings shall be contacted by the President, or his/her designee, regarding the absentee Board Member's desire to continue to serve. In the event a Board Member misses more than four regularly scheduled meetings during a calendar year, they shall be automatically removed from the Board and his/her position shall be filled pursuant to Section 4.4 of these Bylaws.

Section 6.8 Voting

When a quorum is present at any meeting, the vote of a majority of the Board Members present in person decides any question brought before such meeting, unless the question is one upon which the express provisions of law or these Bylaws require a different vote, in which case such express provisions shall govern and control the decision of the question. Each Board Member shall at every meeting of the Advisory Board be entitled to one vote. No Board Member may vote by proxy.

The Main Street Manager shall be a non-voting member of the Advisory Board and the Manager, or his/her designee, shall be present at all meetings of the Advisory Board.

Section 6.9 Electronic Voting

Board Members, by providing an e-mail address to receive electronic transmission, consent to electronic transmission of information (including meeting notices) and to conduct votes via electronic transmission. Such votes are considered final action on the matter if there is unanimous consent of the Advisory Board. After two successive failed attempts to contact a Board Member by electronic means, consent by that Board Member will be considered to be revoked.

Section 6.10 Public Participation

In accordance with City Policy, the public is welcome and invited to attend Board meetings and to speak on any item on the agenda. A person wishing to address the Board must sign up to speak in accordance with the policy of the City Council concerning participation and general public comment at public meetings. Sign-up sheets will be available and should be submitted to the Main Street Manager prior to the start of the meeting. If any written materials are to be provided to the Board, a copy shall also be provided to the Main Street Manager for inclusion in the minutes of the meeting. Speakers shall be allowed a maximum of three (3) minutes to speak, but may take up to six (6) minutes if another individual who signs up to speak yields the time to the speaker. A person who disrupts the meeting may be asked to leave and be removed.

Section 6.11 Open Meetings

Public notice of Board meetings shall be provided in accordance with the provisions of the Georgia Open Meetings Act. All Board meetings and deliberations shall be open to the public, except for properly noticed closed session matters, and shall be conducted in accordance with the provisions of the Georgia Open Meetings Act.

Section 6.12 Closed Sessions

The Board may conduct closed sessions as allowed by law, on properly noticed closed session matters, such as consultation with attorney on legal matters, deliberation regarding the value of real property, competitive utility matters, and economic development negotiations. A certified agenda shall be made of all closed sessions of Board meetings.

Section 6.13 Board Orientation

All new members of the Main Street Advisory Board shall participate in an orientation program familiarizing themselves with the goals and objectives of the program and with their responsibilities.

Section 6.14 Annual Meeting

An annual meeting of the Board shall be held at the first regular meeting of the new calendar year for the purposes of electing officers and transacting such other business.

ARTICLE VII

Reports to City Council

The Advisory Board shall meet with City Council, as requested, to provide reports and to determine how the Board may best serve the City of Villa Rica. Board Reports will be made at a regularly scheduled Council meeting. The Board must submit an annual report to City Council each year.

ARTICLE VIII

Committees

Section 8.1 Structure

In an effort to revitalize the downtown district through historic preservation-based economic development, the Program will utilize the Main Street Four-Point Approach, and other applicable guiding principles and Main Street Approach of the National Main Street Center and Georgia Main Street Program, to leverage success. The Program will have the following standing Main Street Committees:

- A. Organization Committee. The Organization Committee plays a key role in keeping the board, committees, and program-of-work in good shape by attracting people and money to the organization. The City of Villa Rica Main Street Advisory Board will function as the Organization Committee.
- B. Economic Development Committee. The Economic Development Committee promotes the interests of downtown businesses and assists the Main Street Manager in recruiting desirable businesses to the Central Business District.
- C. Design Committee. The City of Villa Rica Historic Preservation Board will function as the Design Committee to protect and improve Villa Rica's built and natural environment through historic preservation.
- D. Promotion Committee. The Promotion Committee fosters good will among residents and attracts tourists by participating in and coordinating special events and promotional activities. The Committee also assists in the implementation of marketing initiatives for the district.

The Program shall also have other committees and ad hoc bodies as the Advisory Board and Main Street Manager may from time to time establish in accordance with the Georgia Main Street Program and the National Main Street Center's guiding principles and Main Street Approach. Main Street Committees must submit a written report to the Main Street Manager one week prior to each regularly scheduled Board meeting. Main Street Committees must also submit minutes of each meeting to the Main Street Manager.

Section 8.2 Committee Members

Main Street Committees shall consist of not less than three (3) members, and shall have as chairperson who shall be responsible for directing and coordinating the affairs of the Main Street Committee. At least one Board member must be represented on each Main Street Committee. The terms of the Main Street Committees shall be for one year.

Main Street Committees will be appointed by the Main Street Manager and Board President with the approval of the Advisory Board. Main Street Committees need not be limited to the Program's downtown businesses, but can have representatives from other relevant areas of the community.

ARTICLE IX Main Street Program Manager

The Main Street Manager is an employee of the City that reports directly to Director of Economic Development as illustrated in the Main Street Organizational Chart attached hereto as Appendix B and is incorporated herein by this express reference. The Main Street Manager shall manage the daily operations of the Program and shall be responsible for the coordination and the implementation of the Program's policies and projects and such other duties as may be required. The Main Street Manager shall serve as a liaison between the Advisory Board and Main Street Committees. The office of the Main Street Manager shall be located within the downtown district in accordance to Georgia Department of Community Affairs guidelines. The Manager will maintain information regarding the revitalization in the Central Business District.

ARTICLE X Finances and General Provisions

Section 10.1 Fiscal Year.

The fiscal year of the Program will begin on the first day of January, and end on the last day of December of each year. On the first year of creation, the fiscal year will begin upon creation and end on the last day of December.

Section 10.2 Funds.

The Advisory Board and the Board Members have no authority to expend funds or to incur or make an obligation on behalf of the City unless authorized and approved by City Council. Board Members may be reimbursed for expenses authorized and approved by City Council and the Advisory Board. The Advisory Board shall have the authority to administer the monies from the Main Street Fundraising Account with the support of the City. The Advisory Board is required to submit a report of all fundraising incoming and spending to the Main Street Manager and the City Council in a timely manner.

Section 10.3 Year-End Financial Statement.

Within two months after the close of the fiscal year, the Treasurer will prepare a year-end financial statement showing in reasonable detail the source and application of the previous year's funds and the financial condition of the Program. This statement will be presented to the Advisory Board at

a regular Board meeting. All finances, accounts, and monies of the Program will be audited by, and in coordination, with the City.

ARTICLE XI

Books and Records

Correct books of account of the activities and transactions of the Program shall be kept at the office of the Program. These shall include a minute book, which shall contain a copy of these Bylaws and all minutes of meetings of the Advisory Board, work plans, and vision and mission statements.

ARTICLE XII

Conflict of Interest

Any Board Member who has a financial, personal, or official interest in, or conflict (or appearance of a conflict) with any matter pending before the Advisory Board, of such nature that it prevents or may prevent that Board Member from acting on the matter in an impartial manner, shall disclose such conflict and the Board shall abide by the following protocol:

- A. Abstinance from Vote. When any conflict of interest is relevant to a matter requiring action by the Advisory Board, the interested person shall call it to the attention of the Board or its appropriate Committee and such person shall not vote on the matter; provided however, any Board Member disclosing a possible conflict of interest may be counted in determining the presence of a quorum at a meeting of the Advisory Board or a Committee thereof.
- B. Absence from Discussion. Unless requested to remain present during the meeting, the person having the conflict shall retire from the room in which the Advisory Board or its Committee is meeting and shall not participate in the final deliberation or decision regarding the matter under consideration. However, that person shall provide the Board or Committee with any and all relevant information.
- C. Minutes. The minutes of the meeting of the Advisory Board or one of its Committees shall reflect that the conflict of interest was disclosed and that the interested person was not present during the final discussion or vote, and did not vote. When there is doubt as to whether a conflict of interest exists, the matter shall be resolved by a vote of the Advisory Board or its Committee, excluding the person concerning whose situation the doubt has arisen.

Section 12.1 Annual Review.

A copy of this conflict of interest bylaw shall be furnished to each Board Member and Officer who is presently serving the Program, or who may hereafter become associated with the Program. This policy shall be reviewed annually for the information and guidance of Board Members, Officers, and staff members. Any new Board Members or Officers shall be advised of this policy upon undertaking the duties of such office.

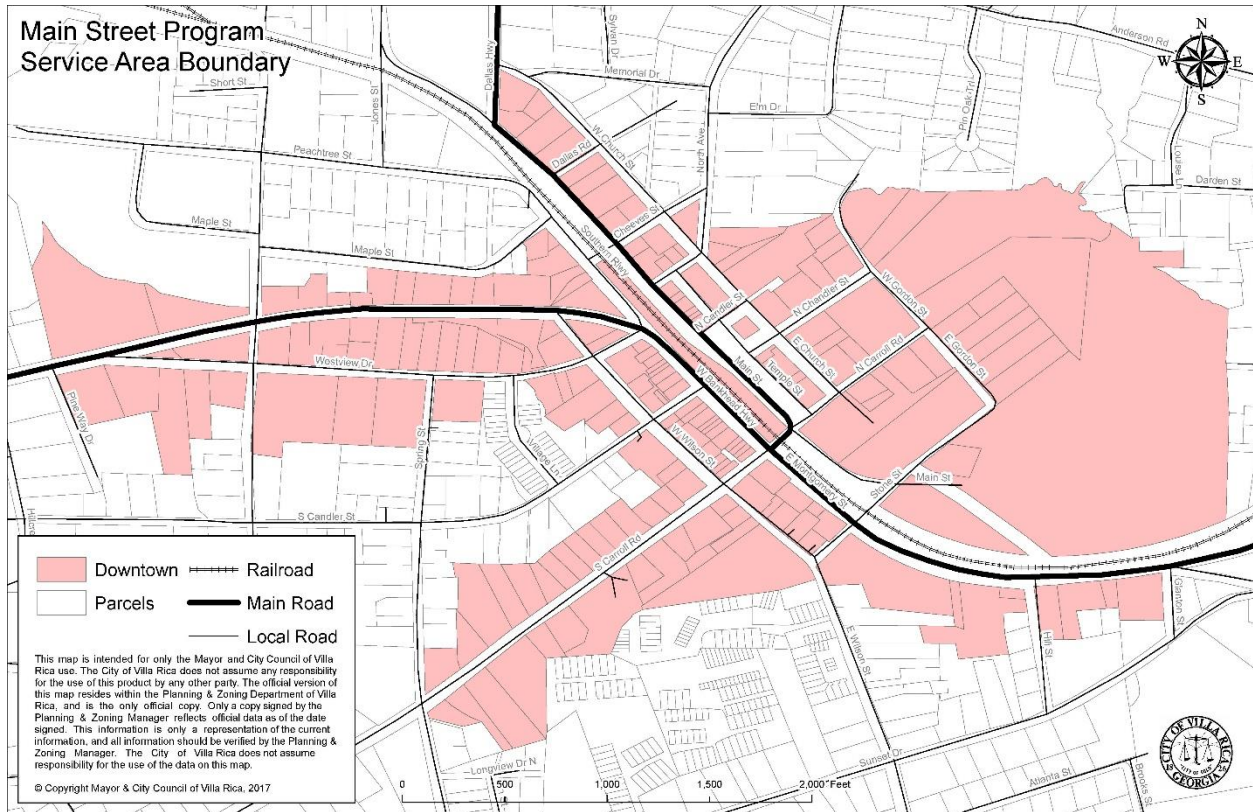
ARTICLE XIII

Amendments

The Advisory Board shall have the power to alter, amend, or repeal the Bylaws or adopt new Bylaws by a quorum vote at a duly called meeting of the Board. However, the Board's proposed amendments to the Bylaws must be approved by City Council. Bylaw amendments are not effective until approved by City Council.

Appendix A

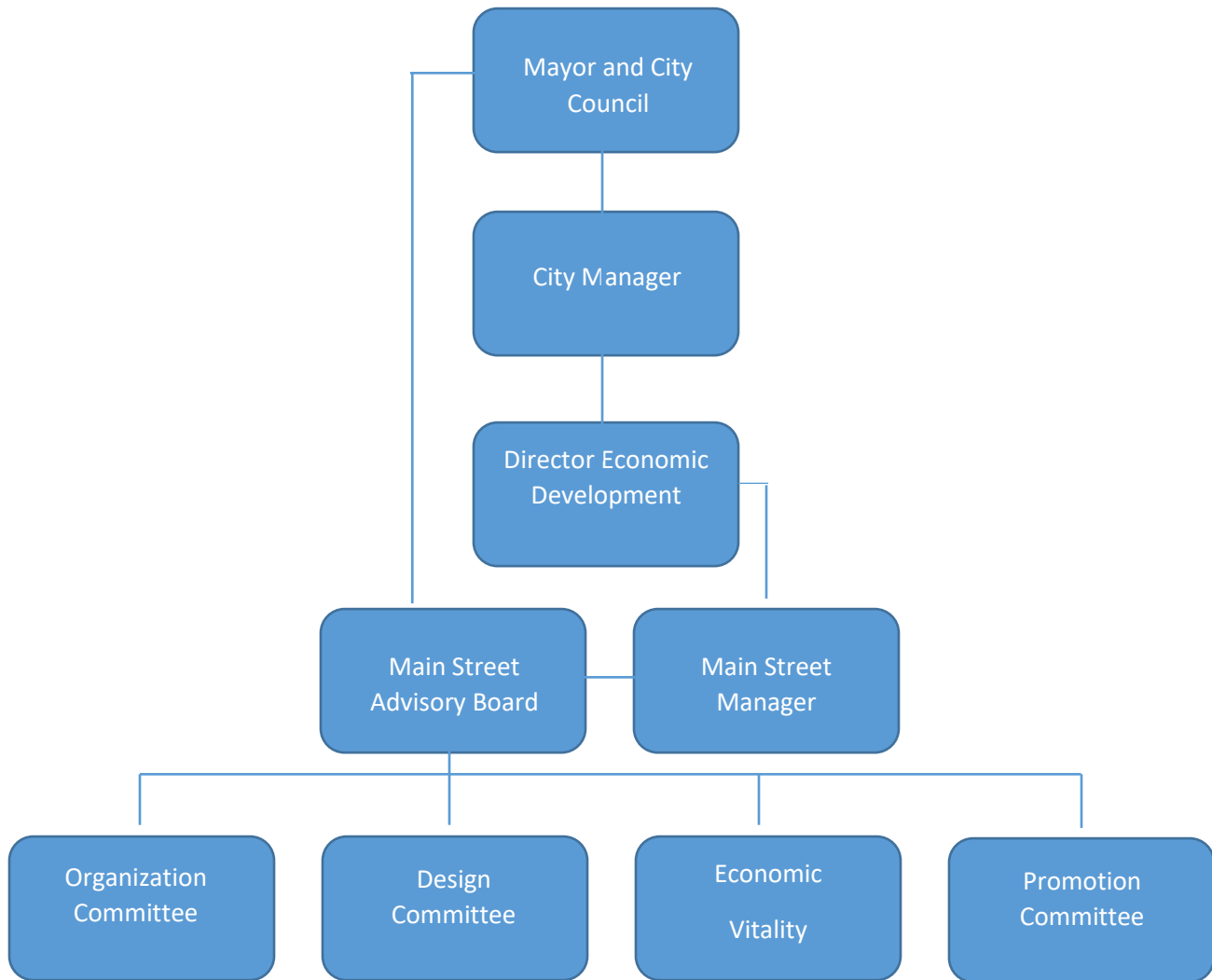
Villa Rica Main Street Downtown Central Business District



Appendix B

Main Street Villa Rica Organizational Chart

City Sponsored Program





Agenda Item:_____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Adjust Amount Approved for CapturePoint (Recreation Software)
AGENDA DATE: 10-13-2020

DATE PREPARED: 10-02-2020
PREPARED BY: Tracie Ivey & Sarah Andrews

AMOUNT: See below
GL ACCOUNT #: 100-6120-521300
FUNDING SOURCE: Recreation Operating Budget
BUDGETED ITEM? Yes

PURPOSE: To have the Council approve the adjusted quote for the CapturePoint Recreation software that was originally approved by Council on February 11, 2020.

BACKGROUND: Council approved CapturePoint recreation software on February 11, 2020 for the following amounts:

Per Coversheet (and Council Approval on 2-11-2020)

One-time Implementation Fees: \$9,250
Annual Subscription Fee: \$5,950
Total = \$15,200

The contract was never executed, and now the quote has been updated with the removal of the Geo-Code items and the addition of the Financial reporting piece.

Per Updated Quote

One-time Implementation Fees: \$4,750
Annual Subscription Fee: \$5,950
Total = \$10,700

STAFF RECOMMENDATION: To approve the adjusted quote amount for CapturePoint.

MOTION: I make a motion to approve the mayor signing the CapturePoint agreement for the quoted amount of \$4,750 in one-time implementation fees and \$5,950 for annual subscription fees.

September 29, 2020

Tracie Ivey
Director
Villa Rica City Parks & Recreation
646 Industrial Blvd.
Villa Rica, GA 30180

Dear Tracie,

Thank you for considering CommunityPass Online Registration and Payment Management software. CommunityPass includes a carefully constructed, comprehensive combination of products and services providing:

- Support for online, phone-in, mail-in and walk-in registration
- Credit card, check and cash payment processing
- Real-time reporting and email messaging
- Self-service site and software administration

Our business model, which is based in part on an annual software subscription, requires us to pay attention not just to our customer's initial needs, but to their ongoing needs as our profitability is based on maintaining a high rate of subscription renewals. The result is a strong, personal investment in our customers' ongoing success. We have a great track record and are looking forward to the opportunity to share our success with you.

We are pleased to provide the following Agreement for Services for your review. *If you agree the terms, please sign Page 2 of this document and send back to Capturepoint for countersignature either by mail (address listed above), fax or scan/email. Our fax number is 201-689-2123.*

Please feel free to contact us if you have any questions.

Sincerely,

Tim Bracken
Capturepoint
201-639-5902
tbracken@capturepoint.com

Price Quote

141 Dayton Street
Ridgewood, NJ 07450
Phone: 201-689-2323
Fax: 201-689-2123
www.capturepoint.com

Fees

Item	Implementation (One-Time)	Subscription (Annual)	Item Total
- Implementation Management ¹	\$ 2,000.00	\$ -	\$2,000.00
- Customization (create 1 custom report for Cassell Financial (no integration/API/automation)	\$ 1,250.00	\$ -	\$1,250.00
- Web Based Training (6 sessions)	\$ 1,500.00		\$1,500.00
- CommunityPass Recreation ²	\$ 0.00	\$ 5,950.00	\$5,950.00
Total (Year 1)	\$4,750.00	\$5,950.00	\$10,700.00

1. Implementation will not commence until Capturepoint and the Client agree to and sign a Tentative Implementation Schedule.
2. See Agreement for Services #9 and #10 for incremental payment processing fees.

Dates & Point of Contact

Item	
Client Name & Account Number	Villa Rica City Parks & Recreation; VI27720
Agreement of Services Version	7.0
Point of Contact Name Title Address Phone Email	Tracie Ivey Director 646 Industrial Blvd. Villa Rica, GA 30180 770-459-7011 taivey@villarica.org

APPROVALS:

The signatures below, or the submission of payment or a purchase order, constitute agreement to the terms of this Agreement and the terms outlined in Appendices A, B and C. *Please sign and send back to Capturepoint for countersignature either by mail, fax or email/scan (photos are not accepted). Our fax number is 201-689-2123.*

For Villa Rica City Parks & Recreation:

Name: _____
Title: _____
Signature: _____
Date: _____

For Capturepoint:

Name: _____
Title: _____
Signature: _____
Date: _____

Agreement for Services

Client: Villa Rica City Parks & Recreation
Contact: Tracie Ivey, Director

Account #: VI27720
Version: 7.0

The agreement ("Agreement") begins on the later of the dates it is signed ("Effective Date"), between Capturepoint LLC d/b/a Capturepoint ("Capturepoint"), with principal offices at 141 Dayton Street, Suite 204, in Ridgewood, NJ, 07450 and Villa Rica City Parks & Recreation ("Client"), with its principal place of business located at 646 Industrial Blvd. Villa Rica, GA 30180

1. **Services.** Capturepoint will provide software and services ("Services") as defined in the Price Quote and described in Appendix A – Capturepoint Services Description, which is incorporated herein by this reference as defined herein. All services "checked" in Appendix A are included as Services to be provided by Capturepoint for the fees specified in the Price Quote. Capturepoint's performance shall be in a competent and professional manner equal to high quality performance by a professional services company.

2. **Excluded Services.** Excluded Services are i) Enhancements, which are system wide change requests submitted by the Client and ii) Customization, which are changes that impact only the Client's system. Customization is defined as custom eligibility, custom pricing, custom reports, custom validations, public site design, or other customized product features. Excluded Services are subject to additional fees and not included in the standard Services.

3. **Services Fees.** Fees for Services are either i) Annual Subscription or ii) One-Time, which are based on estimates. Should the hours required for Professional Services exceed the estimates provided, Capturepoint will provide written documentation including a detailed explanation of the variance and providing a new estimate for approval by the Client.

4. **CommunityPass.** CommunityPass is a Service and its Annual Subscription fee is based on i) the CommunityPass Package selected in Appendix A – Capturepoint Services and ii) the number of Organizations and as defined in the Price Quote. An Organization is an individual entity that operates autonomously. A CommunityPass subscription does not include any additional Services.

5. **Subscription Start Date.** The Subscription Start Date is i) the date the 12-month subscription commences and ii) occurs on the first day of the month a) at least 30 days after the Effective Date or b) after the first training session is completed, whichever occurs first.

6. **Renewal Date.** The Renewal Date is the first day of the month of the Subscription Start Date in the following year.

7. **Ownership.** Client owns all content and registration data ("Files") generated via the Services. Should the contract between Capturepoint and Client be terminated for whatever reason, Capturepoint will provide all Client Files promptly to the appropriate individual at the Client upon request. Capturepoint shall retain all right, title and interest in and to its software, copyrights, trademarks, service marks, logo and trade names worldwide ("Intellectual Property"). The Intellectual Property is licensed, not sold. The Intellectual Property is protected by copyright and other intellectual

property laws and treaties. Client shall use the Intellectual Property only as provided, and shall not alter the Intellectual Property in any way, or act or permit action in any way that would impair Capturepoint's rights in its Intellectual Property. Client acknowledges that the use of the Intellectual Property shall not create any right, title or interest in or to such Intellectual Property.

8. **Support Services.** By signing the Agreement for Services, Client agrees to the support terms and conditions as defined in Appendix B – Capturepoint Support.

9. **Payment Processing Fees.** Payment Processing Fees are included in this Agreement. Capturepoint charges a 2.65% payment processing fee plus \$.28/transaction fee for Visa, Mastercard and Discover. Capturepoint charges a 3.6% payment processing fee plus \$.28/transaction fee for American Express. Capturepoint charges a 1% payment processing fee for E-Check plus \$.28/transaction fee. E-Check is an electronic payment funded by the buyer's bank account. A \$35 Insufficient funds fees will be charged if the Client does not hold sufficient funds in their bank account to cover Capturepoint's Payment Processing Fees per debit.

10. **Payment Processing Terms and Conditions.** Capturepoint will provide payment processing services as defined in <https://www.communitypass.net/payment-terms-and-conditions/>, which is incorporated herein by this reference as defined herein. Client must maintain a positive balance in their Bank Account or risk suspension of deposits (e.g. the amount of refunds issued cannot create a negative bank account balance).

11. **Additional Merchant Accounts.** This Agreement is for use of Services with one (1) merchant account, which services one (1) Organization. One merchant account includes one (1) Card Present (used for in-person use) account and one (1) Card Not Present (used for online use) account. Subscriptions requiring more than one merchant account are subject to an additional annual Service Fee. Clients that do not implement Card Present and Card Not Present accounts simultaneously are subject to additional One-Time fees.

12. **Training.** Training is session based and is priced/Service. It is intended to be "train-the-trainer" sessions. i) The Client is responsible for coordinating the trainee(s) to attend training; ii) trainees will train the entire Client's staff; iii) For On-Site CommunityPass training, Capturepoint will train up to five (5) people/Service at no additional cost; iv) Staff will be trained at a location designated by the Client; v) Each trainee will have access to a computer and the Internet, so that multiple users can be trained simultaneously; vi) Capturepoint will provide access to meeting software during Web-based training; vii) Travel & Expenses for On-Site training are priced separately; viii) Additional Web-based retraining is recommended per year to handle any retraining or staff turnover. If any of the above conditions are not met, the price of training may be altered.

13. **Price Quote.** The Price Quote is specifically incorporated by this reference and sets forth all fees due and

payable from Client for the Services described herein. The Price Quote cost estimate is valid for 60 days from the Date of this Agreement.

14. Wait Charge. Capturepoint may invoke a \$100/day wait charge if Client does not provide the items listed in Section 15 prior to the implementation start date. Capturepoint will notify Client in writing when this charge is invoked.

15. Client Obligations. The following are responsibilities that Capturepoint expects of its customers.

a. Designated Contact. Client will provide a single, primary point of contact that will serve as a subject matter expert to quickly resolve issues that arise during the implementation and throughout Term of service.

b. Chargebacks. Client agrees that any disputes between Client and a Cardholder relating to a transaction funded directly to the Client shall be settled between Client and the Cardholder directly. Client understands that such disputes can result in a Cardholder issued "Chargeback" to Client. A Chargeback occurs when a merchant issues credit to a cardholder's account. Chargeback(s) can be avoided by settling disputes with the Cardholder directly or issuing a refunded transaction. Such chargeback disputes may require Client to provide a copy of the signed credit card receipt and other supporting documentation.

c. Hardware Purchase. Any hardware required for this implementation must be purchased, installed and tested by the Client. Capturepoint bears no responsibility for acquiring hardware. Capturepoint does not directly guarantee or warranty any hardware equipment purchased through Capturepoint or from another vendor. Any equipment purchased through Capturepoint is non-refundable. Hardware quote is valid for 90 days from the date on this Agreement of Services or December 31st of the current year, whichever comes first.

d. Hardware Integration and Support. Hardware including, but not limited to, bar code scanners, web cameras, touch screens, ID printers and credit card swipes purchased from other sources may not have the required programming to work with the Services. Capturepoint does not provide hardware programming or maintenance and does not guarantee or warranty hardware purchased via Capturepoint or elsewhere will work with Capturepoint Services.

e. Policies. Client is responsible for providing policy information pertaining to their specific rules of operation, such as, Code of Conduct, Internet, Refund and Privacy Policy. The Privacy Policy is posted on the Public Site. The Privacy Policy automatically defaults to Capturepoint's Privacy Policy if the Client does not supply one. The Capturepoint Terms of Use is posted on the Administrator Site. All administrators of the Services must comply with the Terms of Use. Failure to comply with the Terms of Use policy may result in the suspension or termination of Services.

f. Internet Service. Client is responsible for the purchase and set up of their Internet service, which is required for the use of Services. Capturepoint does not provide Internet service connection support or maintenance. For the best performance of Services, Capturepoint recommends using a broad-band Internet connection capable of upload and download speeds of at least 1MB per second. Capturepoint supports the following

browsers: Microsoft Internet Explorer 9, Microsoft Edge (v14 or later), Mozilla Firefox (v53 or later), Google Chrome (v58 or later), Safari (v10.1 or later) and Opera (v45 or later).

g. Bank Account. Client will provide a valid Bank Account and routing number to Capturepoint to debit Fees via ACH electronic banking. Should the Bank Account change, Client must notify Capturepoint in writing immediately or risk 1) delay receipt of Registration Fees and 2) being subject to Insufficient Funds Fees for non-payment of Service Fees.

h. User Roles. Client is responsible for creating, approving or de-permissioning user roles. Client should have a transition plan for administrators that join or leave the organization. Capturepoint does not create or approve user roles, unless Client provides written approval of the changes. User roles may not be deleted.

i. Setup. Client is responsible for organizing and entering their content, which, includes but is not limited to, catalog, facility, memberships and financial information, unless Client purchases the Program Setup or Reservation Manager Setup Service.

j. Online Gaming/Gambling. Client is responsible for complying with their state and local gaming authority's laws and regulations regarding online gaming. Gaming may include, but is not limited to, raffles, contests, 50/50s, etc. Failure to comply with the state law may result in suspension or termination of the Service.

k. Compliance with Governing Laws. Client is responsible for complying with their state and local laws, which includes but is not limited to, convenience fees. Failure to comply with the state and local laws may result in suspension or termination of the Service.

16. Cloud Computing. Capturepoint uses web-based software that users access from any computer with an Internet connection. The software is hosted by and resides on Capturepoint servers. The software can integrate with the following hardware items, which if using must be purchased, installed and tested, prior to using the Services: Cash drawer, Receipt Printer, Digital Camera/Web Cam, Bar Code Scanner, Photo ID Printer.

17. Security. Capturepoint uses advanced technology for Internet security. When you access our site, Secure Socket Layer (SSL) technology protects your information using both server authentication and data encryption, ensuring that your data is safe, secure, and available only to registered users ("Users") in your organization. Client data will be inaccessible to unauthorized visitors.

Capturepoint provides each Client's User with a unique user name and password that must be entered each time a User logs on. Capturepoint issues a session cookie ("Cookie") only to record encrypted authentication information for the duration of a specific session. The session Cookie does not include either the username or password of the user. Capturepoint does not use Cookies to store other confidential user and session information, but instead implements more advanced security methods based on dynamic data and encoded session IDs.

Capturepoint products are hosted in a secure server environment that uses a firewall and other advanced technology to prevent interference or access from outside intruders.

18. Overtime charges. Work performed outside of the Regular Service Hours, at the specific request of the Client, are subject to overtime charges. Should the Client request overtime hours, both Client and Capturepoint should provide written approval of the overtime hours. Upon completion of the work, Capturepoint will provide written documentation, of the overtime hours worked.

19. Payment. Capturepoint will invoice Client for One-Time Set Up Fees incurred upon execution of this Agreement. Capturepoint will invoice for the Annual Subscription fees on the Subscription Start Date. On the Renewal Date, Capturepoint will submit one annual invoice to the Client. Payment is due within thirty (30) days of Client's receipt of each invoice. Should any invoice remain unpaid for more than thirty (30) days, interest shall be paid at a rate of 1.5% per month. Capturepoint will debit Payment Processing Fees monthly from Client's approved bank account. Failure to comply with Payment terms may result in the suspension or termination of Services.

20. Receipt of Payment. Receipt of payment by cash, check, cashier's check, money order or other means or receipt of a Purchase Order by the Client confirms acceptance of the Terms & Conditions as defined in the Agreement of Services and serves as approval of the Terms & Conditions in lieu of Client signature.

21. Term. This agreement shall have a term of twelve (12) months commencing on the Subscription Start Date, unless terminated as provided in Section 22. This Agreement will automatically renew for additional (12) month terms.

22. Termination. Either party may, upon giving thirty (30) days written notice identifying specifically the basis for such notice, terminate this Agreement. In the event this Agreement is terminated, Client shall pay Capturepoint for all Services rendered and expenses incurred prior to the date of termination. Capturepoint will not pro-rate or return funds for the current subscription period.

23. W9. Capturepoint's current year W9 is located in Appendix C.

24. Exclusions. The Agreement does not include any additional Services that are not set forth in this Agreement. Additional requirements will be documented and agreed to prior to the execution of this Agreement.

25. Warranty. Capturepoint warrants that its Services will be performed in a good and workmanlike manner. Capturepoint shall re-perform any work not in compliance with this warranty brought to its attention within a reasonable time (not to exceed sixty (60) days), after that work is performed. Except as represented in this Agreement, all Services are provided "AS IS." THE PRECEDING IS CAPTUREPOINT'S ONLY EXPRESS WARRANTY CONCERNING THE SERVICES AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, INFORMATIONAL CONTENT, SYSTEMS INTEGRATION, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE.

26. Indemnification. Client shall indemnify and hold Capturepoint harmless from third party claims arising out of its use of the Services.

27. Limitation of Liability. The sole liability of either party to the other (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner

related to this Agreement shall in no event in the aggregate exceed, in the case of Capturepoint's liability, the fees received by Capturepoint for the Services giving rise to the liability, or, in the case of Client, the total fees payable to Capturepoint. In no event shall either party be liable for consequential, incidental, indirect, special or punitive loss, damage or expenses (including lost profits). Any action by either party must be brought within two (2) years after the cause of action arose.

28. Integration. This Agreement and its attached appendices constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection herewith, and not covenant, representation or condition not expressed in this Agreement shall affect, or be effective, to interpret, change expand or restrict the express provisions of this Agreement.

29. Modification of Agreement by Writing. This Agreement may not be modified, amended, waived, extended, changed, discharged, assigned or terminated orally or by any act or failure to act on the part of either party. This Agreement may be modified, amended, waived, extended, changed, discharged, assigned or terminated only by an agreement in writing signed by both parties.

30. Assignment. Neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

31. Notice. Any notice or other communication provided under this Agreement shall be in writing and shall be effective either when delivered personally to the other party, or five (5) days following deposit of such notice or communication into the United States mail (certified mail, return receipt requested, or first class postage), facsimile (with delivery confirmation) e-mail to the point of contact at the email address set forth in this Agreement, or overnight delivery services (with delivery confirmation), addressed to such party at the address set forth in this Agreement. Either party may designate a different address by notice to the other given in accordance with this Agreement.

32. Force Majeure. Neither party will be liable for any delays or failures to perform due to causes beyond that party's control.

33. Branding. Client shall not use Capturepoint's name outside Client's organization without Capturepoint's express written consent, which may be withheld by Capturepoint in its sole discretion.

34. Waiver. No delay on the part of either party to this Agreement in exercising any right, power of privilege under this Agreement shall operate as a waiver of any such right, power or privilege.

35. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of New Jersey, without giving effect to conflict of law rules.

36. Agreement Execution. This Agreement may be executed simultaneously in counterparts, and by PDF or other electronic transmission, each of which counterparts shall be deemed an original, but all of which together shall constitute one and the same instrument, provided that all such counterparts, in the aggregate, shall contain the signatures of all parties hereto.

APPENDIX A - CAPTUREPOINT SERVICES DESCRIPTION

Capturepoint Products

Capturepoint is comprehensive cloud-based software that provides online data collection, payment, and reporting to cover all aspects of administration. For product descriptions, visit <http://communitypass.net/features/index.html>.

CommunityPass Packages

- ☐ *CommunityPass Essentials*
- ☐ *CommunityPass Membership*
- ☒ *CommunityPass Recreation*
- ☐ *CommunityPass Enterprise*
- ☐ *CommunityPass School*

A La Carte Features

- ☐ *After Care*
- ☐ *Digital Attendance (1 Site). *Requires After Care.*
- ☐ *Facility Rentals (Permits)*
- ☐ *Gateway Support*
- ☐ *Instructor Site*
- ☐ *Leagues*
- ☐ *Pass Fulfillment*
- ☐ *Student Manager*
- ☐ *Ticket Redemption*

Capturepoint Professional Services

Capturepoint's experienced professionals are available to support the planning, implementation, and optimization of Capturepoint Services. For service descriptions, visit <http://communitypass.net/features/index.html>.

CommunityPass Set Up Service

- ☒ *CommunityPass Setup.* Activation of a CommunityPass subscription, E-Commerce, creation and testing of 1 administrator account, setting of account-specific defaults and Webinar Training.
 - ☐ *CommunityPass Essentials*
 - ☐ *CommunityPass Membership*
 - ☒ *CommunityPass Recreation*
 - ☐ *CommunityPass Enterprise*
 - ☐ *CommunityPass School*

Training Services

- ☐ *On-Site Training.* Training includes syllabus, training materials and training site. Training is session based and priced per Service. Training is a "train-the-trainer" service. Refer to Agreement of Services Section 12 for terms and conditions.
- ☒ *Web-Based Training.* Training includes syllabus and training materials. Training is session based and is priced per Service. Training is a "train-the-trainer" service. Refer to Agreement of Services Section 12 for terms and conditions.

Sessions Included:

- ☒ *CommunityPass Setup.* Core training course to set up content, users and programs. Admins should take this course before starting a CommunityPass deployment or when taking over an existing deployment.
- ☒ *CommunityPass Customer Management.* Core training course that focuses on managing an organization's front desk, including processing registrations, payments, refunds, transfers and withdrawals.
- ☒ *CommunityPass Reporting.* Core training course that shows how to run standard and ad hoc reports.
- ☐ *CommunityPass Q&A.* For A "freestyle" 2-hour session lets the trainer help execute what was learned in the Setup and Front Desk sessions. The trainer can assist with program entry, new user setup, setting eligibility and capacity rules or any other item covered in the Setup and Front Desk sessions.

Feature Training Sessions:

- ☐ *After Care*
- ☐ *Digital Attendance*
- ☒ *Facilities Setup*
- ☒ *Facilities Customer Management*
- ☐ *Instructor Site*
- ☐ *Leagues*
- ☒ *Memberships, ID Scanning & POS*
- ☐ *Pass Fulfillment*
- ☐ *Ticket Redemption*

Consulting Services

- ☐ Business Analysis & Consulting. Identify custom requirements, configurations, reporting, etc. through a series of meetings led by a Consultant. Includes time for documentation.
- ☒ Customization. Customize eligibility rules, reports, public site design, or other product features or Enhancements to meet the unique needs the Client.
- ☐ Data Entry. Capturepoint will enter catalog data into CommunityPass.
- ☐ Data Migration. Migrate your membership database from spreadsheets or a prior system. Capturepoint will merge like records, purge duplicates and upload a clean membership list. Data migration process dependent on the organization's current installation of software. Migration includes individual/account meta-data, membership ID data and current member status. Family Upload of no more than one year of family data from existing client database to Capturepoint. Financial and transactional history is not included.
- ☒ E-Commerce Integration. Connection of CommunityPass to Client merchant bank and transaction testing. All monies will deposit into one merchant account, unless the client purchased Additional Merchant Accounts.
- ☐ Facilities Set Up. Capturepoint facilities analysis collects, organizes and imports existing facility information into the Scheduler.
- ☒ Implementation Management. Implementation Management identifies all of the areas where CommunityPass will impact existing workflow, policies,

procedures and marketing, enabling Capturepoint to suggest the optimal approach to implementing Capturepoint products. A Capturepoint Consultant manages the implementation and organizes up to six (6) weekly status meetings.

- ☐ Program Set Up. Capturepoint analyzes, organizes and enters catalog and brochures into the system.
- ☐ Report Analysis & Design. A Capturepoint Consultant analyzes your existing reports and makes recommendations whether your organization needs 1) pre-built, 2) custom, or 3) Report Builder reports.
- ☐ Post-Launch Managed Support. Post-Launch Managed Support is designed to accommodate unexpected issues that occurs post implementation. Your organization receives access to a Capturepoint Consultant who organizes weekly status meetings and manages follow up tasks for a specified time period. Rollout Management commences after completion of CommunityPass training.
- ☐ Student Upload Service. Provide the development and customization to upload your Student Information System (SIS) into CommunityPass. Capturepoint 1) loads the student database, 2) creates family accounts and 3) prepares letters to send to users.
- ☐ Systems Integration. Capturepoint offers three options for systems integration. All three options include the creation of a custom file format that would align with the upload requirements of the software.

APPENDIX B – CAPTUREPOINT SUPPORT

1. Service Hours. Regular Service Hours are Monday - Friday, 9:00am - 5:00pm ET. Emergency Hours are 24/7.
2. Severity Levels. There are two types of service levels:
 - a. Severity Level 1. The site is wholly or substantially inoperable or interrupted.
 - b. Severity Level 2. The site experiences a minor error and the impact to normal activities is minimal, including bugs and enhancements.
3. Support. "Support" is included with your Capturepoint Subscription and includes: 1) Severity Level 1 support 24X7 2) Severity Level 2 support during Regular Service Hours 3) access to CommunityPass Help & Training, 4) access to the Ticket Management System (TMS), 5) bug fixes, 6) analysis and resolution of issues with the system by a Capturepoint Technical Resource that cannot otherwise be solved by a Customer Service representative. Initial analysis and recommendations are included with your Capturepoint license. Relief for a problem may be a billable service. Support **does not** include Training or Professional Services.
4. Response Times. Capturepoint will attempt to resolve issues as quickly as possible; however, we make no guarantees or representations, either expressed or implied, regarding resolution time of any issue. If the issue is categorized as Severity Level 1, we will work on it until it is resolved, provided the issue is within the scope of our control. If a Severity Level 2 alert occurs outside of Regular Service Hours, on weekends, or on a holiday, resolution may not occur until the next business day. If we cannot reach the Designated Contact, as defined as the Client's primary contact, outside of Regular Service Hours and such contact is needed to rectify your issue, Capturepoint may not be able to provide support.
5. Tickets. "Tickets" are requests for Support. Each incoming request will be assigned a number, which must be referenced in the subject of all correspondence. Severity Level 1 Tickets take prioritization over all other Tickets, unless otherwise advised by the Client.
6. Ticket Management System "TMS". All requests for Support requiring a Ticket are submitted via a TMS. Acknowledgements, status updates and closure documentation will be transmitted through TMS. TMS is available 24/7 and monitored regularly by Capturepoint support staff.
7. Ticket Process Flow. To maintain organization and communication with Client, Capturepoint will perform the following tasks for each new or changed Support request.
 - a. Receipt of request: All Support requests by email are routed to a Customer Service Representative who verifies the contact information. Designated Contacts may be required to approve Support requests submitted by other members of the Client's organization. Requests will be addressed in the order received. Capturepoint does not accept Support requests via text messaging, website or fax. Capturepoint does not accept Severity Level II requests by phone.
 - b. Problem Triage. Analyze request and investigate potential solutions or answers. Capturepoint will: 1) solve your request immediately, 2) research your request and provide a response, or 3) open a Ticket. If a Ticket is opened, Capturepoint will assess and record time estimates for each request and assign a Severity Level.
 - c. Relief: Relief is the answer to the request or, in the case of a product defect, a temporary fix, a workaround (configuration changes, temporarily turning off non-critical product functionality) or an action plan to get the software up and running. Once Relief is provided, Capturepoint may downgrade the severity of the Ticket. Relief provided to the problem may also be the solution that the Client confirms resolves the issue and the Ticket will be closed. Relief for a problem may be a billable service. Clients will be notified if the solution to fix the issue is billable prior to starting any Ticket work.
 - d. Ticket Resolution. If Relief is delivered and it has not resolved the problem, Capturepoint will continue research until Ticket resolution is found and delivered and confirms that it resolves the problem, at which time the Ticket will be closed. Ticket Resolution as related to the Ticket, is defined as a permanent solution to the problem. A permanent solution may be available as a fix and for some Tickets a permanent solution may be available in the next release. Also, custom fixes or work-arounds may be developed to circumvent a product defect that will not be included in future releases; in such Tickets, these fixes and workarounds will be considered a permanent resolution by Capturepoint.
8. Enhancements. Enhancements are system wide change requests submitted by the Designated Contact via TMS. If approved, Capturepoint will prioritize the enhancement within the product development cycle. Completion of the enhancement will vary based on its complexity and development priorities. Expediting an approved enhancement request may be a billable service.
9. Capturepoint Responsibilities. The following are responsibilities that Capturepoint expects of its Clients will perform. In some cases, Capturepoint may require Client to engage in billable services.
 - a. Ticket Management. Capturepoint will use commercially reasonable efforts to manage and address the Client's Ticket based on the Severity Level and its complexity. All Ticket Management targets and delivery timelines are goals and not commitments, and the actual timing may vary.
 - b. Bug Fixes. Capturepoint will remedy defects or failures within the system. Capturepoint will prioritize bugs based on critical impact to the system and use commercially reasonable efforts to remedy bugs in a timely manner. Bug fixes do not include problems caused by Client negligence, abuse or misapplication; use of Capturepoint products other than as is specified in the product documentation or other Tickets beyond the control of Capturepoint. Capturepoint makes no

representation or warranty that all bugs will be fixed.

- c. Availability of Product. Capturepoint will strive to achieve 100% availability of Service, except for scheduled maintenance windows, which Capturepoint will perform outside of Regular Service Hours, when possible. Capturepoint will notify Client in advance of scheduled maintenance. Capturepoint technical support will be available for Severity Level 1 issue resolution 24 hours a day, 7 days a week. Lack of accessibility to the Services because of problems outside the control of Capturepoint, as described in this Agreement for Services, will not be counted against this availability requirement.
- d. Replication of Client problems. Capturepoint makes every effort to duplicate Client problems. There are times, however, when a Customer Service Representative is unable to replicate the issue. When this happens, Capturepoint gathers all pertinent information before escalating an issue. The Customer Service Representatives have direct access to Technical Support Representatives, who analyze issues and makes recommendations for solving the problem, which may require billable services. Capturepoint works together as a team to bring timely resolution to Client reported problems and strive to maintain a high level of Client satisfaction.
- e. Materials. All support materials are maintained electronically and can be accessed through CommunityPass Help & Training. Capturepoint does not provide paper copies of its support materials.
- f. Consulting. At times, a Consultant may be required to resolve a problem or evaluate a business issue. The need for a Consultant is evaluated on a case-by-case basis by Capturepoint management. Dispatching a Consultant, either, on site or remotely, will occur once a signed agreement has been entered into between the Client and Capturepoint. This agreement shall be detailed within a statement of work and is a billable service.
- g. Message Manager. Message Manager is a bulk email delivery tool that transmits multiple email messages within a single batch. Bulk email messages are delivered through a separate engine than transactional email messages such as receipts, outstanding payment notices and tuition reminders are processed on a first come first served basis. As a result, bulk email delivery may not occur immediately after the request has been submitted. Capturepoint makes every effort to ensure that messages are delivered; however, there are many reasons outside of Capturepoint's control that may prevent bulk email messages from being delivered (e.g. spam filters.)
- h. Asset Storage. Capturepoint stores all Client Assets (i.e. images, documents, forms) in Amazon CloudFront. Capturepoint adheres to all Terms & Condition stipulated by Amazon CloudFront hosting agreement, which can be found at <https://aws.amazon.com/partners/terms-and-conditions/>.

Customer Service Representatives will not:

- i. Guide Client through step-by-step implementations or provide remote implementation assistance for Capturepoint products.
 - j. Perform ticket work outside Client's Support contract.
 - k. Support of any software other than the specified line of Capturepoint Services.
 - l. Support of hardware or third-party products. However, Capturepoint will make a reasonable effort to help you get a resolution to your hardware or third-party vendor problem within standard resolution time goals. The Ticket is kept open until the resolution is delivered or it is determined that Capturepoint cannot control the hardware or third party issue, at which time we will inform the Client that Capturepoint is not able to resolve the issue and the Ticket is closed.
 - m. Assistance with problems caused by Client negligence, abuse or misapplication; use of Capturepoint products other than as is specified in the product documentation or other causes beyond the control of Capturepoint; any other problem that is excluded under Capturepoint's standard support terms or problems caused by any unsupported hardware and/or software.
10. Client Responsibilities. The following are responsibilities that Capturepoint expects of its Clients. To ensure that the problem or question is resolved as promptly as possible, the Client should meet these responsibilities before requesting Support.
- a. Requirements Definition & Ticket Prioritization. Client is responsible for describing system changes or enhancements in a Ticket ("Requirements Definition"), setting Ticket priorities and managing the Ticket list for Capturepoint. Only Tickets that are "Not Started" may be prioritized. Once a Ticket is "In Progress," the Client can no longer prioritize the Ticket. If Capturepoint defines requirements, the time spent defining requirements may be a billable service.
 - b. Provide Capturepoint with timely responses and any information reasonably needed to address a Ticket.
 - c. Thoroughly review all product documentation before contacting Support for assistance. Check self-service resources on CommunityPass Help & Training. Capturepoint strongly encourages Client to make use of these resources and provide feedback on areas where we can expand and improve value.
 - d. Client should use reasonable efforts to isolate, document and report errors to Support.
 - e. Severity Level 1 Request. If the Client is experiencing a Severity Level 1 issue, call Capturepoint. Do not send emails for Severity 1 issue. Client should abide by the Severity Level 1 terms. Abuse or misuse of the terms more than three times will result in fees and overtime

penalties, time and a half of the consulting rate for time spent analyzing and researching the problem.

- f. Capturepoint will not accept Support requests directly from Client's end users. It is the Client's responsibility to service your customer calls and inquiries. A console is available for Client's to update contact information for end users.
- g. Capturepoint will support all Administrative Users of CommunityPass. However, Client should assign a Designated Contact as the primary contact. Typically, the Organization Administrator is the Designated Contact. A Designated Contact needs to have a basic understanding and access to expertise in the tasks related to administering and trouble-shooting CommunityPass. Capturepoint encourages organizations to filter all support requests through the Designated Contact, as Capturepoint will typically require approval and feedback from the Designated Contact prior to resolving Tickets and questions.

- h. Asset Upload. Client may only upload Assets which the Client has all necessary copyright and other rights. If the Client uploads an Asset, anyone with access to that Asset may view and download copies of the Asset. Client is solely responsible for how the Client shares Assets and who may access Your Assets that the Client shares. Client may not upload Assets (a) that contain defamatory, threatening, abusive, pornographic, or otherwise objectionable material, (b) that advocate bigotry, hatred, or illegal discrimination, or (c) if sharing those files violates any law, any intellectual property, publicity, privacy, or other right of others, or any license or other agreement by which the Client is bound.

- 11. Changes to Capturepoint Support. Capturepoint reserves the right to amend our support policies and will notify Client in writing of any changes.

APPENDIX C – W9

Form (Rev. October 2018) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification ▶ Go to www.irs.gov/FormW9 for instructions and the latest information.	Give Form to the requester. Do not send to the IRS.																																																		
W-9 1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Capturepoint, LLC 2 Business name/disregarded entity name, if different from above Capturepoint 3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate ☐ Other (see instructions) ▶ _____ 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)																																																				
5 Address (number, street, and apt. or suite no.) See instructions. 141 Dayton Street, Suite 204 6 City, state, and ZIP code Ridgewood, NJ 07450 7 List account number(s) here (optional) Requester's name and address (optional)																																																				
Part I Taxpayer Identification Number (TIN) Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later. Note: If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.																																																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center; font-size: 0.8em;">Social security number</td> </tr> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="10" style="text-align: center; font-size: 0.8em;">or</td> </tr> <tr> <td colspan="10" style="text-align: center; font-size: 0.8em;">Employer identification number</td> </tr> <tr> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">-</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">6</td> <td style="width: 20px; height: 20px; text-align: center;">6</td> <td style="width: 20px; height: 20px; text-align: center;">6</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">6</td> <td style="width: 20px; height: 20px; text-align: center;">9</td> </tr> </table>			Social security number																				or										Employer identification number										2	2	-	3	6	6	6	2	6	9
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Part II Certification Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.																																																				
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General Instructions Section references are to the Internal Revenue Code unless otherwise noted. Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9 . Purpose of Form An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.																																																				
• Form 1099-DIV (dividends, including those from stocks or mutual funds) • Form 1099-MISC (various types of income, prizes, awards, or gross proceeds) • Form 1099-B (stock or mutual fund sales and certain other transactions by brokers) • Form 1099-S (proceeds from real estate transactions) • Form 1099-K (merchant card and third party network transactions) • Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition) • Form 1099-C (canceled debt) • Form 1099-A (acquisition or abandonment of secured property) Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i>																																																				

Cat. No. 10231X

Form **W-9** (Rev. 10-2018)



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Earthwork for Distribution/Collection Equipment Storage Building

AGENDA DATE: October 13, 2020

DATE PREPARED: October 1, 2020

PREPARED BY: Pete Zorbanos

AMOUNT: \$ 89,999.99

GL ACCOUNT #: 505-4440-541210

FUNDING SOURCE: Water/Sewer Fund

BUDGETED ITEM? Yes

PURPOSE: To engage a contractor to excavate and replace approximately 2,000 cubic yards of earth for the Distribution/Collection Equipment Storage Building to be located at the Old West Plant site.

BACKGROUND: The Distribution/Collection Department plans to relocate to the Old West Plant property. An equipment storage building for equipment and vehicles is needed. Before the building can be erected, poor soils need to be removed, and replaced with suitable and compactable soil.

STAFF RECOMMENDATION Two bids were received for this project. Staff recommends awarding the contract for earthwork for the Distribution/Collection Equipment Storage Building to the low bidder, International Waste Services, LLC in the amount of \$89,999.99.

IMPACT. By removing the poor soil with good compactible soil, will provide an adequate base to put the building on and prevent settling.

MOTION: I make a motion to award the contract for earthwork for the Distribution/Collection Equipment Storage Building to the low bidder, International Waste Services, LLC in the amount of \$89,999.99.



September 21, 2020

Pete Zorbanos
Utilities Director
571 W. Bankhead Hwy
Villa Rica, GA 30180

SUBJECT: City of Villa Rica
Earthwork for Equipment Storage Building
C&S Project No.: V8150.013

Dear Pete:

As you are aware, bids were received and opened for the above subject project on September 10, 2020 at 11:00 am. A total of two (2) responsive bids were received out of the five (5) companies listed on the plan-holders list. International Waste Services, LLC out of Lawrenceville, Georgia with a base bid of \$89,999.99 was determined to be the low bidder. We have checked and tabulated the base bids received as follows:

<u>Contractor</u>	<u>Total Base Bid</u>	<u>% Over Low Bid</u>
1. International Waste Services, LLC	\$89,999.99	---
2. Blount Construction Company, Inc.	\$148,582.65	65%

As required in the bid documents, the low bidder submitted with his bid a 10% bid bond from the United States Fire Insurance Company, which is listed in the U.S. Treasury Circular #570. The United States Fire Insurance Company is shown as being licensed in the state of Georgia with an underwriting limitation that is greater than the bond amount. The United States Fire Insurance Company has a current A.M. Best rating of "A" which exceeds the requirements of the contract documents.

C&S reached out to multiple references provided by International Waste Services, LLC as part of our due diligence evaluation process. Based on our findings, the low bidder appears to have adequate experience, technical ability, and financial capability to complete this project. **Carter & Sloope therefore recommends the project be awarded to International Waste Services, LLC at a Total Base Bid amount of \$89,999.99.**

We are enclosing one (1) copy of the certified "Bid Tabulation" for your records. We are also enclosing three (3) copies of the Notice of Award for this project. Please execute all three (3) copies of the Notice of Award and return them to our office as soon as possible. We will prepare three (3) originals of the Agreement and forward them to you when the Contractor has executed the Agreement and delivered all the necessary Payment and Performance Bonds and Certificates of Insurance.

If you have any questions or need any additional information, please call us.

Sincerely,

CARTER & SLOOPE, INC.

A handwritten signature in blue ink that reads "Matt Smith". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Matt Smith, P.E.

Encl: Certified Bid Tabulation – 1 copy
Notice of Award – 3 copies

Cc: Mr. Alwyn Williams, International Waste Services, LLC (w/ 1 copy of each)
File (w/ 1 copy of each)

NOTICE OF AWARD

PROJECT DESCRIPTION:

Earthwork for Equipment Storage Building

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated September 10, 2020, and Instructions to Bidders.

You are hereby notified that your BID has been accepted for items in the amount of

Eighty-Nine Thousand, Nine Hundred Ninety-Nine and 99/100 Dollars (\$89,999.99).

You are required by the Instructions to Bidders to execute the Agreement and furnish the required CONTRACTOR's Performance BOND, Payment BOND and Certificates of Insurance with fifteen (15) calendar days from the date of the Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within fifteen (15) days from the date of this notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE of AWARD to the OWNER.

Dated this ____ day of _____, 20__.

City of Villa Rica

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by **International Waste Services, LLC** this ____ day of _____, 20__.

By: _____

Title: _____

BID TABULATION FOR ALL BIDS
RECEIVED AT THE CITY HALL OF VILLA RICA
ON SEPTEMBER 10, 2020 AT 11:00 AM

Project: Earthwork for Equipment Storage Building
 C&S Project No.: V8150.013

International Waste Services, LLC
 1564 Herrington Road
 Lawrenceville, GA 30042

Blount Construction Company, Inc.
 1730 Sands Place
 Marietta, GA 30067

Base Bid Items:

Item No	Description	Unit	Qty	Unit Price	Total Price	Unit Price	Total Price
ROCK EXCAVATION AND REMOVAL							
1	Undercutting of Existing Soil (60' x 160')	CY	2,000	8.99	\$ 17,999.99	\$ 15.05	\$ 30,100.00
2	Placement of Suitable Fill (provided by City)	CY	2,000	8.50	\$ 17,000.00	\$ 6.55	\$ 13,100.00
3	Hauling of Soil to and from Suite (±7.5 miles each way)	CY	4,000	6.50	\$ 26,000.00	\$ 15.35	\$ 61,400.00
4	Subgrade Stabilization (#57 Stone)	CY	350	45.71	\$ 16,000.00	\$ 74.52	\$ 26,082.00
5	Silt Fence	LF	300	5.00	\$ 1,500.00	\$ 5.15	\$ 1,545.00
6	Grassing and Mulching of Site	LS	1	2,500.00	\$ 2,500.00	\$ 7,355.65	\$ 7,355.65
7	Testing Allowances (GEC)	LS	1	4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
8	Supplemental Work Allowance	LS	1	5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
TOTAL BASE BID:				\$	89,999.99	\$	148,582.65

I hereby certify that this Bid Tabulation is a true and accurate representation of all proposals received on September 10, 2020 at 11:00 AM.

Matthew Smith

Matthew Smith, PE #28763



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Compactible Soil for Distribution/Collection Equipment Storage Building

AGENDA DATE: October 13, 2020

DATE PREPARED: October 1, 2020

PREPARED BY: Pete Zorbanos

AMOUNT: \$ 10,000.00

GL ACCOUNT #: 505-4440-541210

FUNDING SOURCE: Water/Sewer Fund

BUDGETED ITEM? Yes

PURPOSE: To purchase approximately 2,000 cubic yards of compatible soil for the Distribution/Collection Equipment Storage Building to be located at the Old West Plant site.

BACKGROUND: The Distribution/Collection Department plans to relocate to the Old West Plant property. An equipment storage building for equipment and vehicles is needed. Before the building can be erected, poor soils need to be removed, and replaced with suitable and compactable soil.

STAFF RECOMMENDATION Staff recommends purchasing an amount of good compatible soil up to approximately 2,000 cubic yards at \$5.00 per cubic yard from Jeff Mathews in an amount not to exceed \$10,000.00.

IMPACT. By removing the poor soil with good compactible soil, will provide an adequate base to put the building on and prevent settling.

MOTION: I make a motion to approve the purchase of approximately 2,000 cubic yards of compactible soil at \$5.00 per cubic yard from Jeff Mathews in an amount not to exceed \$10,000.00.



Agenda Item: _____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: Items for Auction – Police Department
AGENDA DATE:

DATE PREPARED: 09-29-20
PREPARED BY: Captain Shaddix

AMOUNT: N/A
GL ACCOUNT #:
FUNDING SOURCE:
BUDGETED ITEM?

PURPOSE: Approval from council to sell items from a court order on an on-line auction.

BACKGROUND: A list of items is attached which have been removed from the evidence room per a court order and declared as abandoned property. The items are no longer needed as evidence and the owners could not be located or have declined to retrieve the property.

STAFF RECOMMENDATION: Sell the items using an on-line auction service such as govdeals.com

IMPACT:

MOTION: I make a motion that we approve the selling of the items from the abandoned property order using govdeals.com.

ITEMS FOR AUCTION FROM EVIDENCE DISPOSAL

TOOLS/ETC:

- 1 - Milwaukee M12 Drill with Lithium Battery
- 1 - Milwaukee M12/M18 Charger

KNIVES/ETC:

- 1 - Buck® Pocket Knife
- 1 - Ruko Knife
- 1 - Berkeley Knife
- 1 - Sheffield Knife
- 1 - Bone Handled Knife
- 2 - Gerber Knife – Large
- 1 - Gerber Knife – Small
- 1 - Puma Pocket Knife
- 1 - Ozark Trail Camp Knife w/Paracord
- 1 - Smith & Wesson M&P® Knife

SPORTING GOODS:

- 1 - SpyPoint 4GB Trail Camera
- 1 – Brinkmann LED Flashlight

JEWELRY:

- 1 – Necklace w/Angel Pendant
 - 1 – Necklace w/I Love You Mom Pendant
 - 6 – Pair Hypoallergenic Earrings
 - 1 – Necklace with Mom/Flower Pendant
 - 1 – Necklace w/Flower Pendant
 - 1 – Timex Wristwatch
 - 1 – CZ Ring Approx. Size 7
 - 1 – CZ Ring Approx. Size 6 ½
 - 1 – CZ Ring Approx. Size 6
 - 1 – Crucifix 10kt Gold Plated
 - 10 – Pair of Miscellaneous Sized Hoop Earrings
 - 1 – Pair Ball Earrings
 - 2 – Pair Large Ball Earrings
 - 2 – Pair Miscellaneous Size Ball Earrings
 - 1 – Pair Clasp Earrings
 - 1 – Pair Copper/Silver Plate Clasp Earrings
 - 2 – Necklaces w/Love Pendant
 - 3 – Pair of Hoop Earrings
 - 1 – Small Link Necklace
 - 1 – Necklace with Cross/Heart Pendant
-  All in Same Box

SHOES:

- 1 – Pair Nike Air Black/OD Green/Orange Midtops Size 8M
- 1 – Pair Nike AF-1 Sneakers White 8.5M

ITEMS FOR AUCTION FROM EVIDENCE DISPOSAL

Gaming Consoles and Devices:

- 1- PlayStation 4 Console System
- 1 – Xbox One S Console System
- 2 – Nintendo 3DS XL Handheld (no A/C adapters included)

Electronics:

- 1 – Samsung Galaxy Tab S3 – 32 GB, 9.7” screen
- 1 – Galaxy Tab Elite – 8GB, 7” screen
- 1 – Garmin DrivesSmart GPS – 5” screen
- 1 Tom Tom XXL GPS

MISCELLANEOUS:

- 1 – 2005 Minnesota Quarter in Plastic Case (Non-Circulated)



Agenda Item:_____

CITY OF VILLA RICA

City Council Meeting Agenda Item Cover Sheet

SUBJECT: 2020 Budget Amendment
AGENDA DATE: 10-13-2020

DATE PREPARED: 09-22-2020
PREPARED BY: Sarah Andrews

AMOUNT: See Exhibit A
GL ACCOUNT #:
FUNDING SOURCE:
BUDGETED ITEM?

PURPOSE: To adopt ordinance amending the 2020 budget.

MOTION: I make a motion to adopt the ordinance to approve an amendment to the budget for the fiscal year 2020 for the City pursuant to Section 2-71 of the City Charter.

TEMPORARY WORKERS		<i>Temporary workers have been used in place of the inmate crews that were lost due to COVID-19.</i>			
<i>Source of Funds:</i> CARES Act					
<i>Item</i>	<i>Account Name</i>	<i>Account Type</i>		<i>Amount</i>	
109 100-4910-511200	Seasonal/Temporary Emp	Expense	Increase	60,000.00	
110 100-335020	Coronavirus Relief Fund	Revenue	Increase	60,000.00	

STATE OF GEORGIA

ORDINANCE NO. _____

CITY OF VILLA RICA

**AN ORDINANCE TO APPROVE AN AMENDMENT TO THE BUDGET
FOR THE FISCAL YEAR 2020 FOR THE CITY
PURSUANT TO SECTION 2-71 OF THE CITY CHARTER**

WHEREAS, the Mayor and City Council adopted the 2020 Budget on September 24, 2019, which incorporated all of the various funds of the City; and

WHEREAS, the Mayor and Council have determined it appropriate to amend the budget for the reasons set forth herein.

WHEREAS, the Mayor and Council have reviewed the proposed budget; and

WHEREAS, each of the funds, as amended, has a balanced budget, such that anticipated revenues equal or exceed proposed expenditures.

NOW, THEREFORE, the Mayor and City Council of the City of Villa Rica, Georgia, hereby ordain as follows:

Section 1. That the City of Villa Rica, Georgia, hereby amends the Budget for Fiscal Year 2020, said budget amendment being described as Amendment No. 109-110, attached hereto and incorporated as Exhibit A.

Section 2. That any increase or decrease in appropriations or revenue of any fund or for any department; the establishment of new capital projects; or the establishment of new grant projects other than those expectations provided for herein, shall require approval of the City Council.

Section 3. That the City Manager and his/her designee may promulgate all necessary internal rules, regulations and policies to ensure that this Budget Amendment Ordinance is followed.

Section 4. This Resolution shall be effective immediately upon its adoption.

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence,

clause or phrase of same. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of same.

3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the same and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are expressly repealed.

5. The within ordinance shall become effective upon its adoption.

SO ORDAINED AND EFFECTIVE this the _____ day of _____, 2020.

Approved:

Gil McDougal, Mayor

Attest:

Alisa Doyal, City Clerk